
By: The President (Administration) and Senators Astle, Hogan, and Trotter

Introduced and read first time: January 26, 1996

Rule 32(d) suspended

Assigned to: Finance and Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **State Personnel Management System Reform Act of 1996**

3 FOR the purpose of abolishing the classified service and the unclassified service of the
4 State Personnel Management System; establishing the skilled service, professional
5 service, management service, and executive service within the State Personnel
6 Management System; requiring the Secretary of Personnel to establish classes and
7 to assign a rate of pay to each class; requiring the Secretary to assign a class that has
8 been established to the skilled service, professional service, management service, or
9 executive service; requiring the head of a principal unit of State government to
10 submit for the Secretary's approval a position classification plan for classifying
11 positions in the unit that are in the skilled service, professional service, and
12 management service; requiring the head of a principal unit to classify skilled service
13 positions, professional service positions, and management service positions in
14 accordance with the approved classification plan; requiring each unit to fill vacant
15 skilled service and professional service positions in accordance with a position
16 selection plan; altering the amount of holiday leave and personal leave to which an
17 employee is entitled; requiring the performance of each employee in the skilled
18 service, professional service, and management service to be evaluated; providing for
19 disciplinary actions against employees; providing a procedure for termination of
20 employees; providing a procedure for grievances; and generally relating to
21 reforming and reorganizing the State Personnel Management System.

22 BY adding to

23 Article - State Personnel and Pensions
24 Section 1-201 to be under the new title "Title 1. Definitions and General
25 Provisions" and the new subtitle "Subtitle 2. General Provisions"; 2-101 to be
26 under the new title "Title 2. State Employment Generally" and the new
27 subtitle "Subtitle 1. General Provision"; 2-201 and 2-202 to be under the new
28 subtitle "Subtitle 2. Personnel Systems in State Government"; 2-301 through
29 2-303 and 2-307 to be under the new subtitle "Subtitle 3. State Employment
30 Policies"; 2-401 and 2-601; 4-201 through 4-204 to be under the new subtitle
31 "Subtitle 2. Classes and Position Classifications"; 4-401; 5-205, 5-207 through
32 5-215, 5-301, 5-304, and 5-307 through 5-311; 6-102 to be under the new title
33 "Title 6. State Personnel Management System Generally"; 6-201 through
34 6-203 to be under the new subtitle "Subtitle 2. Responsibilities of Appointing

2

1 Authorities in State Personnel Management System"; the new subtitle
 2 designations "Subtitle 3. Positions in State Personnel Management System"
 3 and "Subtitle 4. Employment Categories in the State Personnel Management
 4 System"; 6-402 through 6-404; 7-101, 7-102, and 7-201 through 7-210;7-301
 5 to be under the new subtitle "Subtitle 3. Other Appointments"; 7-401through
 6 7-405, 7-501 through 7-504; 7-602; 9-102, 9-201, 9-307, and 9-507; 9-601
 7 through 9-607 to be under the new subtitle "Subtitle 6. State Employees'
 8 Leave Bank and Employee-to-Employee Leave Donation Program"; 9-1001
 9 and 9-1101; 9-1201 through 9-1207 to be under the new subtitle "Subtitle 12.
 10 Attendance Incentive in State Personnel Management System"; 10-101 to be
 11 under the new title "Title 10. Employee Training Program; Awards and
 12 Benefits in Executive Branch" and the new subtitle "Subtitle 1. Employee
 13 Training Program"; 10-301 to be under the new subtitle "Subtitle 3. Length of
 14 Service Awards in Executive Branch"; 11-101 through 11-113 to be under the
 15 new title "Title 11. Disciplinary Action, Layoffs, and Employment
 16 Terminations in State Personnel Management System"; 11-204 and 11-205;
 17 11-301 through 11-306 to be under the new subtitle "Subtitle 3. Employment
 18 Separations and Terminations"; 11-401; 12-301 through 12-303; 12-401 to be
 19 under the new subtitle "Subtitle 4. Miscellaneous Provisions"; 13-101 to be
 20 under the new title "Title 13. Contractual Employment and Service Contracts
 21 in Executive Branch"; the new subtitle designation "Subtitle 2. Satisfaction of
 22 Awards" of Title 14; and the new title designation "Title 15. Prohibited Acts
 23 and Penalties" and the new subtitle designation "Subtitle 1. Prohibited Acts"
 24 Annotated Code of Maryland
 25 (1994 Volume and 1995 Supplement)

26 BY repealing

27 Article - State Personnel and Pensions
 28 Section 1-402 through 1-406 and 1-501 and the title "Title 1. Definitions; General
 29 Provisions", the subtitle designations "Subtitle 3. Classified Service", "Subtitle
 30 4. Unclassified Service", and "Subtitle 5. Short-Term Employees"; 2-107;
 31 2-301 through 2-305 and the subtitle "Subtitle 3. Delegation of Hearing
 32 Authority"; 3-101 and the subtitle "Subtitle 1. Reprisals for Grievances,
 33 Complaints, or Other Actions Concerning State Employment"; 3-201, 3-301,
 34 3-305 through 3-308, 3-405 through 3-407, 3-409, and 3-410; 3-501 and
 35 3-502 and the subtitle "Subtitle 5. Actions Based on Medical Conditions";
 36 3-601; 3-701 through 3-704 and the subtitle "Subtitle 7. Telecommuting Pilot
 37 Program"; the subtitle designation "Subtitle 8. State Substance Abuse Policy";
 38 4-101, 4-102, and 4-201 through 4-210; 4-301 through 4-307 and the subtitle
 39 "Subtitle 3. Certification and Appointment"; 4-401 through 4-404 and 4-501
 40 through 4-504; 4-601 through 4-604 and the subtitle "Subtitle 6. Transfers";
 41 5-101 through 5-107 and the title "Title 5. Part-Time Employment"; 6-401,
 42 6-402, 6-403; 7-102, 7-103, 7-204, 7-206, 7-301, 7-305, 7-401, 7-501, 7-509
 43 through 7-513, 7-601, 7-801, 7-1001 through 7-1005, and 7-1101; 9-101
 44 through 9-104 and the title "Title 9. Separations" and the subtitle "Subtitle 1.
 45 Rejections During Probation"; 9-201 through 9-208 and the subtitle "Subtitle
 46 2. Removals for Cause After Probation"; 9-301 through 9-306 and the subtitle
 47 "Subtitle 3. Suspensions Pending Disposition"; 9-401 through 9-407; 10-206;

3

1 11-101 and 11-102 and the title "Title 11. Reinstatements"; 12-101 and
 2 12-102 and the title "Title 12. Short-Term Employment; Service Contracts";
 3 and the title designation "Title 13. Miscellaneous Prohibited Acts"
 4 Annotated Code of Maryland
 5 (1994 Volume and 1995 Supplement)

6 BY repealing and reenacting, with amendments,

7 Article - State Personnel and Pensions
 8 Section 1-101; 1-201 to be under the amended subtitle "Subtitle 1. State Personnel
 9 Management System Established; Purpose" of Title 6; 1-202 through 1-206,
 10 1-301 through 1-303, and 1-401; 2-101 through 2-106 and 2-108 through
 11 2-111 to be under the amended title "Title 4. Department of Personnel";
 12 2-201, 2-202, 2-204, and 2-205 to be under the amended subtitle "Subtitle 3.
 13 Reports and Assistance" of Title 4; 3-102 through 3-104 and 3-202 through
 14 3-206; 3-302 through 3-304, 3-309, and 3-310 to under the amended subtitle
 15 "Subtitle 3. Maryland Whistleblower Law in the Executive Branch of State
 16 Government" of Title 5; 3-401 through 3-404 and 3-408 to be under the
 17 amended subtitle "Subtitle 2. Equal Employment Opportunity Program in the
 18 Executive Branch of State Government" of Title 5; 3-602 to be under the
 19 amended title "Title 5. Employee Rights and Protections" and the amended
 20 subtitle "Subtitle 1. Notice of Personnel Provisions to State Personnel
 21 Management Employees"; 3-801; 4-701 through 4-705 to be under the
 22 amended title "Title 7. Employment in the State Personnel Management
 23 System"; the amended subtitle designations "Subtitle 2. Appointment in
 24 Skilled Service and Professional Service", "Subtitle 5. Employee Performance
 25 Appraisals", and "Subtitle 6. Employees of State-Acquired Entities and
 26 Miscellaneous Provisions" of Title 7; 6-101 through 6-109 to be under the
 27 amended title "Title 8. Compensation of Employees Subject to Salary
 28 Authority of Secretary of Personnel"; 6-201 and 6-202 and 6-301 through
 29 6-309; the amended subtitle designation "Subtitle 4. State Compensation
 30 Generally and Payroll" of Title 2; 7-101 and 7-104 to be under the amended
 31 title "Title 9. Leave Time and Holidays"; 7-201 through 7-203, 7-205, 7-302
 32 through 7-304, 7-306 through 7-309, 7-402 through 7-405, and 7-502 through
 33 7-508; 7-602 through 7-606 to be under the amended subtitle "Subtitle 7.
 34 Work-Related Accident Leave" of Title 9; 7-701 through 7-704 to be under
 35 the amended subtitle "Subtitle 8. Religious Observances" of Title 9; 7-801 and
 36 7-802 to be under the amended subtitle "Subtitle 9. Compensatory Leave" of
 37 Title 9; 7-901 through 7-904; the amended subtitle designation "Subtitle 10.
 38 Family and Medical Leave" of Title 9; 7-1102 through 7-1104; 8-101 through
 39 8-114 to be under the amended subtitle "Subtitle 5. Health and Welfare
 40 Benefits Program" of Title 2; 8-201 through 8-208 to be under the amended
 41 subtitle "Subtitle 2. Incentive Rewards in the Executive Branch" of Title 10;
 42 8-301, 8-302, and 8-304 to be under the amended subtitle "Subtitle 4.
 43 Miscellaneous Benefits in Executive Branch" of Title 10; 8-303 and 8-305; the
 44 amended subtitle designation "Subtitle 1. Disciplinary Actions" of Title 11;
 45 9-501 through 9-506 to be under the amended subtitle "Subtitle 2. Layoffs" of
 46 Title 11; 9-601 and 9-602 to be under the amended subtitle "Subtitle 4.
 47 Resignations" of Title 11; 10-101 through 10-105, and 10-202, 10-203,

4

1 10-204, and 10-303 to be under the amended title "Title 12. Grievance
2 Procedures in State Personnel Management System"; 10-201, 10-205, and
3 10-207 through 10-209 to be under the amended subtitle "Subtitle 2.
4 Grievance Procedure" of Title 12; the amended subtitle designation "Subtitle
5 3. Alternate Use of Peer Review Panel" of Title 12; 10-210; 10-301, 10-302,
6 and 10-304; the amended subtitle designation "Subtitle 6. Reinstatements to
7 State Employment" of Title 2; 11-201 through 11-207 to be under the
8 amended subtitle "Subtitle 7. Reinstatement of Veterans" of Title 2; the
9 amended subtitle designation "Subtitle 1. Contractual Employee Defined" of
10 Title 13; 12-201 through 12-205, 12-301 through 12-305, 12-402 through
11 12-405, 13-101 through 13-108, 14-104, and 14-201
12 Annotated Code of Maryland
13 (1994 Volume and 1995 Supplement)

14 BY repealing and reenacting, without amendments,
15 Article - State Personnel and Pensions
16 Section 14-101 through 14-103 and the title "Title 14. Enforcement" and the
17 subtitle "Subtitle 1. Civil Actions"
18 Annotated Code of Maryland
19 (1994 Volume and 1995 Supplement)

20 BY repealing
21 Chapter 10 of the Acts of the General Assembly of 1993
22 Section 7

23 BY repealing
24 Chapter 10 of the Acts of the General Assembly of 1993, as amended by Chapter
25 614 of the Acts of the General Assembly of 1993
26 Section 16

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
28 MARYLAND, That the Laws of Maryland read as follows:

29 **Article - State Personnel and Pensions**

30 [Title 1. Definitions; General Provisions.]

31 TITLE 1. DEFINITIONS AND GENERAL PROVISIONS.

32 Subtitle 1. Definitions.

33 1-101.

34 (a) In this Division I of this article the following words have the meanings
35 indicated.

36 (b) "Appointing authority" means an individual or a unit of government that has
37 the power to make appointments and terminate employment.

5

1 (c) "Class" means a category of one or more similar positions, as established by
2 the Secretary in accordance with this article.

3 [(d) (1) "Classified service" means all of those positions in the State Personnel
4 Management System that are governed by Title 4 of this article.

5 (2) "Classified service" does not include any position that is:

6 (i) included in the unclassified service under Subtitle 4 of this title; or

7 (ii) excluded from the classified service under Subtitle 5 of this title.]

8 [(e)] (D) (1) "Contractual employee" means an individual DESCRIBED IN §
9 13-101 OF THIS ARTICLE[:

10 (i) who, under a written agreement, provides personal services to this
11 State for pay;

12 (ii) who is not employed in a budgeted position; and

13 (iii) who has an employer-employee relationship with this State in
14 which this State:

15 1. furnishes necessary tools and a place to work;

16 2. has the right to control and direct the details, means, and
17 results of the performance of the services; and

18 3. has the right to discharge the individual from employment.

19 (2) "Contractual employee" does not include an individual who is employed
20 as:

21 (i) a classified service employee;

22 (ii) an unclassified service employee;

23 (iii) an emergency employee; or

24 (iv) a temporary extra employee].

25 [(f)] (E) "County" means a county of this State and, unless expressly provided
26 otherwise, Baltimore City.

27 [(g)] (F) UNLESS EXPRESSLY PROVIDED OTHERWISE, "Department" means the
28 Department of Personnel.

29 (G) "EXECUTIVE SERVICE" MEANS THE EMPLOYMENT CATEGORY IN THE
30 STATE PERSONNEL MANAGEMENT SYSTEM THAT IS DESCRIBED IN § 6-404 OF THIS
31 ARTICLE.

32 (H) "MANAGEMENT SERVICE" MEANS THE EMPLOYMENT CATEGORY IN THE
33 STATE PERSONNEL MANAGEMENT SYSTEM THAT IS DESCRIBED IN § 6-403 OF THIS
34 ARTICLE.

6

1 [(h)] (I) (1) "Person" means an individual, receiver, trustee, guardian, personal
2 representative, fiduciary, or representative of any kind and any partnership, firm,
3 association, corporation, or other entity.

4 (2) Unless expressly provided otherwise, "person" does not include a
5 governmental entity or a unit or instrumentality of a governmental entity.

6 [(i)] (J) "Position" means an employment assignment of duties and
7 responsibilities that requires the full-time employment of one individual or less than
8 full-time employment of one or more individuals.

9 [(j)] "Probation" means the status of an employee who, as a condition of continued
10 employment, is required to demonstrate the ability to perform the duties and fulfill the
11 responsibilities of the employee's position.]

12 [(k)] "Reinstate" means to reemploy an individual with restoration of all benefits.]

13 (K) "PRINCIPAL UNIT" MEANS A PRINCIPAL DEPARTMENT OR OTHER
14 PRINCIPAL INDEPENDENT UNIT OF STATE GOVERNMENT.

15 (L) "PROFESSIONAL SERVICE" MEANS THE EMPLOYMENT CATEGORY IN THE
16 STATE PERSONNEL MANAGEMENT SYSTEM THAT IS DESCRIBED IN § 6-402 OF THIS
17 ARTICLE.

18 [(l)] (M) Except as provided in [Title 8, Subtitle 1] TITLE 2, SUBTITLE 5 of this
19 article, "Secretary" means the Secretary of Personnel.

20 (N) "SKILLED SERVICE" MEANS THE EMPLOYMENT CATEGORY IN THE STATE
21 PERSONNEL MANAGEMENT SYSTEM THAT IS DESCRIBED IN § 6-401 OF THIS ARTICLE.

22 [(m)] (O) "State" means:

23 (1) a state, possession, territory, or commonwealth of the United States; or

24 (2) the District of Columbia.

25 [(n)] (P) "State Personnel Management System" means the personnel system
26 established under [§ 1-201] § 6-101 of this [title] ARTICLE.

27 (Q) "TEMPORARY EMPLOYEE" INCLUDES:

28 (1) A CONTRACTUAL EMPLOYEE; AND

29 (2) AN EMERGENCY EMPLOYEE.

30 [(o)] (1) "Unclassified service" means all of those positions in the State Personnel
31 Management System that are excluded from the classified service by law.

32 (2) "Unclassified service" does not include any position that is:

33 (i) included in the classified service under Subtitle 3 of this title; or

34 (ii) excluded from the unclassified service under Subtitle 5 of this
35 title.]

7

1 SUBTITLE 2. GENERAL PROVISIONS.

2 1-201.

3 UNLESS SPECIFICALLY PROVIDED OTHERWISE, IN THIS DIVISION I OF THIS
4 ARTICLE A REFERENCE TO A "DAY" OR "DAYS" MEANS A CALENDAR DAY OR
5 CALENDAR DAYS.

6 TITLE 2. STATE EMPLOYMENT GENERALLY.

7 SUBTITLE 1. GENERAL PROVISION.

8 2-101.

9 EXCEPT AS EXPRESSLY PROVIDED BY LAW, THIS TITLE DOES NOT LIMIT ANY
10 EXPRESS OR IMPLIED MANAGEMENT PREROGATIVE OR OTHER AUTHORITY
11 BELONGING TO AN APPOINTING AUTHORITY AND MANAGEMENT.

12 SUBTITLE 2. PERSONNEL SYSTEMS IN STATE GOVERNMENT.

13 2-201.

14 EXCEPT AS OTHERWISE PROVIDED BY LAW, AN EMPLOYEE IN THE JUDICIAL,
15 LEGISLATIVE, OR EXECUTIVE BRANCH OF STATE GOVERNMENT IS GOVERNED BY
16 THE LAWS AND PERSONNEL POLICIES AND PROCEDURES APPLICABLE IN THAT
17 BRANCH.

18 2-202.

19 (A) THE PRINCIPAL PERSONNEL SYSTEM IN THE EXECUTIVE BRANCH OF
20 STATE GOVERNMENT IS THE STATE PERSONNEL MANAGEMENT SYSTEM.

21 (B) AS EXPRESSLY AUTHORIZED BY LAW, A UNIT IN THE EXECUTIVE BRANCH
22 OF STATE GOVERNMENT MAY ESTABLISH A PERSONNEL SYSTEM THAT OPERATES
23 INDEPENDENTLY OF THE STATE PERSONNEL MANAGEMENT SYSTEM.

24 SUBTITLE 3. STATE EMPLOYMENT POLICIES.

25 2-301.

26 TO MAINTAIN EFFICIENT AND EFFECTIVE OPERATIONS OF STATE
27 GOVERNMENT, EACH STATE EMPLOYEE:

28 (1) SHALL BE TREATED WITH FAIRNESS IN STATE EMPLOYMENT;

29 (2) MAY PARTICIPATE IN THE STATE HEALTH AND WELFARE BENEFITS
30 PROGRAM IN ACCORDANCE WITH SUBTITLE 5 OF THIS TITLE;

31 (3) MAY PARTICIPATE IN THE STATE RETIREMENT AND PENSIONS
32 SYSTEMS IN ACCORDANCE WITH DIVISION II OF THIS ARTICLE;

8

1 (4) SUBJECT TO TITLE 9, SUBTITLE 6 OF THIS ARTICLE, MAY
2 PARTICIPATE IN THE STATE EMPLOYEES' LEAVE BANK AND THE
3 EMPLOYEE-TO-EMPLOYEE LEAVE DONATION PROGRAM;

4 (5) WHO TRANSFERS TO A POSITION IN ANY UNIT OF STATE
5 GOVERNMENT, REGARDLESS OF THE PERSONNEL SYSTEM GOVERNING THE
6 POSITION, SHALL DO SO WITHOUT LOSS OF LEAVE EARNED OR CREDIT FOR STATE
7 EMPLOYMENT IN OTHER UNITS OF STATE GOVERNMENT; AND

8 (6) IS ENTITLED TO THE RIGHTS AND PROTECTIONS IN THIS TITLE.

9 2-302.

10 (A) THE STATE RECOGNIZES AND HONORS THE VALUE AND DIGNITY OF
11 EVERY PERSON AND UNDERSTANDS THE IMPORTANCE OF PROVIDING EMPLOYEES
12 AND APPLICANTS FOR EMPLOYMENT WITH A FAIR OPPORTUNITY TO PURSUE THEIR
13 CAREERS IN AN ENVIRONMENT FREE OF DISCRIMINATION OR HARASSMENT
14 PROHIBITED BY LAW.

15 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION OR
16 BY OTHER LAW, ALL PERSONNEL ACTIONS CONCERNING A STATE EMPLOYEE OR
17 APPLICANT FOR EMPLOYMENT IN STATE GOVERNMENT SHALL BE MADE WITHOUT
18 REGARD TO:

19 (I) AGE;

20 (II) ANCESTRY;

21 (III) COLOR;

22 (IV) CREED;

23 (V) MARITAL STATUS;

24 (VI) MENTAL OR PHYSICAL DISABILITY;

25 (VII) NATIONAL ORIGIN;

26 (VIII) RACE;

27 (IX) RELIGIOUS AFFILIATION, BELIEF, OR OPINION; OR

28 (X) SEX.

29 (2) A PERSONNEL ACTION MAY BE TAKEN WITH REGARD TO AGE, SEX,
30 OR DISABILITY TO THE EXTENT THAT AGE, SEX, OR PHYSICAL OR MENTAL
31 QUALIFICATION IS REQUIRED BY LAW OR IS A BONA FIDE OCCUPATIONAL
32 QUALIFICATION.

33 (C) (1) EACH STATE EMPLOYEE IS EXPECTED TO ASSUME PERSONAL
34 RESPONSIBILITY AND LEADERSHIP IN ENSURING FAIR EMPLOYMENT PRACTICES
35 AND EQUAL EMPLOYMENT OPPORTUNITY IN MARYLAND STATE GOVERNMENT.

36 (2) EMPLOYMENT DISCRIMINATION AND HARASSMENT BY STATE
37 MANAGERS, SUPERVISORS, OR OTHER EMPLOYEES IS PROHIBITED.

1 (3) A STATE EMPLOYEE WHO VIOLATES THIS SUBTITLE IS SUBJECT TO
2 DISCIPLINARY ACTION BY THE EMPLOYEE'S APPOINTING AUTHORITY, INCLUDING
3 THE TERMINATION OF STATE EMPLOYMENT.

4 (D) THE EQUAL EMPLOYMENT OPPORTUNITY PROGRAM IN TITLE 5,
5 SUBTITLE 2 OF THIS ARTICLE GOVERNS ALL EMPLOYEES OF ANY UNIT IN THE
6 EXECUTIVE BRANCH OF STATE GOVERNMENT, INCLUDING A UNIT WITH AN
7 INDEPENDENT PERSONNEL SYSTEM.

8 (E) (1) AT LEAST ANNUALLY, THE SECRETARY OF PERSONNEL SHALL
9 REPORT ON THE EQUAL EMPLOYMENT OPPORTUNITY PROGRAM ESTABLISHED IN §
10 5-203 OF THIS ARTICLE TO THE LEGISLATIVE JOINT COMMITTEE ON FAIR
11 PRACTICES.

12 (2) THE HEAD OF A PERSONNEL SYSTEM IN THE LEGISLATIVE AND
13 JUDICIAL BRANCHES MAY REPORT PERIODICALLY ON EQUAL EMPLOYMENT
14 OPPORTUNITY PROGRAMS AND POLICIES IN EFFECT IN THAT PERSONNEL SYSTEM
15 TO THE LEGISLATIVE JOINT COMMITTEE ON FAIR PRACTICES.

16 [Subtitle 5. Actions Based on Medical Conditions.]

17 [3-501.

18 (a) This section applies to all applicants for employment in classified service and
19 unclassified service positions in the State Personnel Management System.

20 (b) This section does not affect the power of the Secretary under § 4-203 of this
21 article to establish reasonable minimum or maximum age requirements, if not otherwise
22 set by law, for employment:

23 (1) as a fire fighter;

24 (2) as a police officer;

25 (3) as a correctional officer; or

26 (4) in any other position that requires extraordinary physical effort.

27 (c) Before an applicant may be denied employment for medical reasons, the
28 appointing authority or a designee of the appointing authority shall document in writing:

29 (1) that, using relevant provisions of federal and State law and regulations,
30 reasonable accommodations were considered;

31 (2) the specific accommodations that were considered; and

32 (3) the reasons for rejecting those accommodations.

33 (d) The Secretary shall develop and make available to appointing authorities
34 guidelines on denials of employment for medical reasons that reflect applicable federal
35 and State law and regulations.]

10

1 [3-502.

2 (a) (1) Except as provided in paragraph (2) of this subsection, this section
3 applies to all employees, including classified, unclassified, full-time, part-time,
4 permanent, and temporary employees, of all units in the executive, judicial, and legislative
5 branches of State government, including any unit with an independent personnel system.

6 (2) This section does not apply to contractual employees.

7 (b) The rulemaking and other authority of the Secretary with respect to this
8 section extends only to those employees who are in the State Personnel Management
9 System.

10 (c) An employee may not be denied the opportunity to seek, qualify for, or
11 receive any promotion solely because the employee is on leave for maternity reasons or on
12 sick leave, if the employee is expected to return to work within 60 days after receiving a
13 request to call for an interview for the position.]

14 2-303.

15 (A) THE STATE RECOGNIZES THE RIGHTS AND PROTECTIONS AFFORDED TO
16 ITS EMPLOYEES UNDER FEDERAL LAW.

17 (B) (1) THIS SUBSECTION DOES NOT AFFECT AN AGE REQUIREMENT
18 ESTABLISHED BY STATE LAW OR A GRANT OF AUTHORITY UNDER STATE LAW TO
19 ESTABLISH REASONABLE MINIMUM OR MAXIMUM AGE REQUIREMENTS.

20 (2) A DENIAL OF EMPLOYMENT FOR MEDICAL REASONS SHALL COMPLY
21 WITH APPLICABLE FEDERAL AND STATE LAWS AND REGULATIONS.

22 (3) BEFORE AN APPLICANT MAY BE DENIED EMPLOYMENT OR AN
23 EMPLOYEE TERMINATED FOR MEDICAL REASONS, THE APPOINTING AUTHORITY OR
24 A DESIGNEE OF THE APPOINTING AUTHORITY SHALL DOCUMENT IN WRITING:

25 (I) THAT, UNDER RELEVANT PROVISIONS OF FEDERAL AND
26 STATE LAW AND REGULATIONS, REASONABLE ACCOMMODATIONS WERE
27 CONSIDERED;

28 (II) THE SPECIFIC ACCOMMODATIONS THAT WERE CONSIDERED;
29 AND

30 (III) THE REASONS FOR REJECTING THOSE ACCOMMODATIONS.

31 (C) (1) THIS SUBSECTION DOES NOT APPLY TO CONTRACTUAL EMPLOYEES.

32 (2) A STATE EMPLOYEE MAY NOT BE DENIED THE OPPORTUNITY TO
33 SEEK, QUALIFY FOR, OR RECEIVE ANY PROMOTION SOLELY BECAUSE THE
34 EMPLOYEE IS ON LEAVE FOR MATERNITY REASONS OR ON SICK LEAVE, IF THE
35 EMPLOYEE IS EXPECTED TO RETURN TO WORK WITHIN 60 DAYS AFTER RECEIVING
36 NOTICE OF AN INTERVIEW FOR THE POSITION.

11

1 2-304.

2 [3-202.] (A) (1) Employment by [this] THE State does not affect any right or
3 obligation of a citizen under the Constitution and laws of the United States or under the
4 Constitution and laws of [this] THE State.

5 [3-203.] (2) Except as otherwise provided in this [subtitle] SECTION OR BY
6 FEDERAL LAW, [an] A STATE employee:

7 [1.] (I) may freely participate in any political activity and express any
8 political opinion; and

9 [2.] (II) may not be required to provide any political service.

10 [3-204.] (B) Notwithstanding any other law of [this] THE State effective on or
11 before June 30, 1973, the restrictions imposed by [§ 3-205 of this subtitle] SUBSECTION
12 (C) OF THIS SECTION are the only restrictions on the political activities of an employee,
13 except for:

14 (1) the restrictions imposed on employees of a board of supervisors of
15 elections by Article 33, § 2-6 of the Code;

16 (2) the restrictions imposed on employees of the Department of Fiscal
17 Services by guidelines adopted under § 2-1207(c) of the State Government Article; and

18 (3) the restrictions imposed on employees of the Department of Legislative
19 Reference by guidelines adopted under § 2-1307(c) of the State Government Article.

20 [3-205.] (C) An employee may not:

21 (1) engage in political activity while on the job during working hours; or

22 (2) advocate the overthrow of the government by unconstitutional or violent
23 means.

24 [3-206.] (D) [(a)] (1) In this [section] SUBSECTION, "political contribution" means
25 a contribution as defined in Article 33, § 1-1(a)(5) of the Code.

26 [(b)] (2) A public official or an employee OF THE STATE may not require any
27 STATE employee to make a political contribution.

28 [Subtitle 1. Reprisals for Grievances, Complaints, or Other Actions Concerning State
29 Employment.]

30 [3-101.

31 This subtitle applies to all employees, including classified, unclassified, full-time,
32 part-time, permanent, temporary, and contractual employees, of all units in the
33 executive, judicial, and legislative branches of State government, including all units with
34 independent personnel systems except for the Department of Transportation and the
35 University of Maryland System.]

12

1 2-305.

2 [3-102.] (A) During any stage of a State employee's complaint, grievance, or other
3 administrative or legal action that concerns State employment, the employee may not be
4 subjected to coercion, discrimination, interference, reprisal, or restraint by or initiated on
5 behalf of the employer solely as a result of that employee's pursuit of the grievance,
6 complaint, or [other administrative or legal] action [that concerns State employment].

7 [3-103.] (B) [An] A STATE employee may not intentionally take or assist in taking
8 an act of coercion, discrimination, interference, reprisal, or restraint against another
9 employee solely as a result of that employee's pursuit of a grievance, complaint, or other
10 administrative or legal action that concerns State employment.

11 [3-104.] (C) An employee who violates [§ 3-103 of this subtitle] SUBSECTION (B)
12 OF THIS SECTION is subject to disciplinary action, including the termination of State
13 employment.

14 [Subtitle 8. State Substance Abuse Policy.]

15 [3-801.] 2-306.

16 (a) (1) In this section the following words have the meanings indicated.

17 (2) ["Employee" means an individual who is subject to the State Substance
18 Abuse Policy.

19 (3) "Probation before judgment" means an entry of probation by a court in
20 accordance with Article 27, § 641 of the Code.

21 [(4)] (3) "State Substance Abuse Policy" means the policy against substance
22 abuse in State government, as set out in Executive Order Number 01.01.1991.16 and any
23 subsequent Executive Order.

24 (b) This [subtitle] SECTION may not be construed to eliminate or alter in any
25 way any requirement of an employee to report to an appointing authority an offense,
26 conviction, or probation before judgment under the State Substance Abuse Policy.

27 [(c) An appointing authority:

28 (1) may not consider probation before judgment for an offense to be a
29 conviction for purposes of the State Substance Abuse Policy; and

30 (2) may impose appropriate disciplinary action, up to and including
31 termination, against an employee if the appointing authority can demonstrate a
32 relationship between the offense for which the employee was granted probation before
33 judgment and the employee's job responsibilities.]

34 (C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, AN
35 APPOINTING AUTHORITY MAY NOT CONSIDER PROBATION BEFORE JUDGMENT FOR
36 A SUBSTANCE ABUSE OFFENSE TO BE A CONVICTION FOR PURPOSES OF THE STATE
37 SUBSTANCE ABUSE POLICY.

13

1 (D) AN APPOINTING AUTHORITY MAY IMPOSE APPROPRIATE DISCIPLINARY
2 ACTION, INCLUDING TERMINATION, AGAINST AN EMPLOYEE UNDER THE STATE
3 SUBSTANCE ABUSE POLICY, IF:

4 (1) THE EMPLOYEE RECEIVES PROBATION BEFORE JUDGMENT IN A
5 SUBSTANCE ABUSE OFFENSE; AND

6 (2) THE APPOINTING AUTHORITY CAN DEMONSTRATE A RELATIONSHIP
7 BETWEEN THAT SUBSTANCE ABUSE OFFENSE AND THE EMPLOYEE'S JOB
8 RESPONSIBILITIES.

9 2-307.

10 (A) A STATE EMPLOYEE MAY NOT DIRECTLY SUPERVISE THE EMPLOYEE'S
11 PARENT, SPOUSE, SIBLING, OR CHILD.

12 (B) A STATE EMPLOYEE MAY NOT USE, THREATEN TO USE, OR ATTEMPT TO
13 USE POLITICAL INFLUENCE OR THE INFLUENCE OF ANY STATE EMPLOYEE OR
14 OFFICER IN GAINING AN UNFAIR ADVANTAGE IN ANY PERSONNEL DECISION
15 AFFECTING THE EMPLOYEE, INCLUDING A DECISION ABOUT PROMOTION,
16 TRANSFER, LEAVE OF ABSENCE, OR INCREASED PAY, OR IN DISCIPLINARY ACTIONS.

17 (C) A STATE EMPLOYEE MAY NOT USE, THREATEN TO USE, OR ATTEMPT TO
18 USE PERSONAL INFLUENCE IN PROVIDING AN UNFAIR ADVANTAGE TO ANOTHER
19 INDIVIDUAL IN ANY PERSONNEL DECISION, INCLUDING A DECISION ABOUT HIRING,
20 PROMOTION, TRANSFER, LEAVE OF ABSENCE, OR INCREASED PAY, OR IN
21 DISCIPLINARY ACTIONS.

22 (D) AN EMPLOYEE WHO VIOLATES THIS SECTION IS SUBJECT TO
23 DISCIPLINARY ACTION, INCLUDING THE TERMINATION OF STATE EMPLOYMENT.

24 Subtitle 4. [Payroll] STATE COMPENSATION GENERALLY AND PAYROLL.

25 2-401.

26 (A) EXCEPT AS OTHERWISE PROVIDED BY LAW, COMPENSATION FOR STATE
27 EMPLOYEES IS DETERMINED UNDER A PAY PLAN.

28 (B) THE PAY PLANS FOR THE EXECUTIVE BRANCH OF STATE GOVERNMENT
29 ARE DESCRIBED IN TITLE 8 OF THIS ARTICLE.

30 [6-401.] 2-402.

31 (a) Except as provided in subsection (b) of this section and notwithstanding any
32 other law, the Central Payroll Bureau of the Office of the State Comptroller shall provide
33 for the payment of all wages to:

34 (1) each officer and employee of the State who is paid from funds
35 appropriated by the General Assembly; and

36 (2) whether or not paid from funds appropriated by the General Assembly,
37 each officer and employee of:

38 (i) the University of Maryland System;

14

1 (ii) Morgan State University;

2 (iii) St. Mary's College of Maryland; and

3 (iv) Baltimore City Community College.

4 (b) The Central Payroll Bureau shall maintain all supporting payroll records for
5 the payment of wages under this section.

6 [6-402.] 2-403.

7 (a) (1) Subject to subsection (b) of this section, on the written request of an
8 employee to pay dues to an organization by payroll deduction, the Central Payroll Bureau
9 shall:

10 [(1)] (I) deduct the dues from the employee's wages; and

11 [(2)] (II) timely pay over the amount deducted to the organization.

12 (2) AN EMPLOYEE MAY CANCEL A PAYROLL DEDUCTION OF
13 ORGANIZATION DUES BY WRITTEN NOTIFICATION TO THE CENTRAL PAYROLL
14 BUREAU.

15 (b) The Central Payroll Bureau may deduct dues under this section only for:

16 (1) an organization that has a membership of 1,000 or more State
17 employees;

18 (2) an organization for which the potential field of membership is limited to
19 fewer than 1,000 State employees, if the Governor has approved the deduction for that
20 organization; or

21 (3) an organization for which payment of dues by payroll deduction was
22 authorized on or before June 29, 1983.

23 [(c) An employee may cancel a payroll deduction of organization dues by written
24 notification to the Central Payroll Bureau.]

25 [(d)] (C) The State Comptroller shall adopt regulations to carry out this section.

26 [6-403.] 2-404.

27 (a) (1) This section applies to income tax that is imposed by a state other than
28 this State.

29 (2) This section does not apply to any income tax that is imposed by a
30 political subdivision of another state.

31 (b) Subject to subsection (c) of this section, the Central Payroll Bureau shall:

32 (1) withhold income tax imposed by another state from the wages of a State
33 officer or employee who is a resident of that state; and

34 (2) pay over the amount withheld to the appropriate tax collecting agency of
35 that state.

15

1 (c) This section applies only if:

2 (1) Maryland State income tax is not required to be withheld from the wages
3 of the officer or employee under Title 10, Subtitle 9, Part II of the Tax-General Article;
4 and

5 (2) the state where the officer or employee resides:

6 (i) withholds Maryland State income tax from the wages of Maryland
7 residents who are employed by that state; and

8 (ii) pays over the amount withheld to the Maryland State Comptroller.

9 Subtitle [1.] 5. Health and Welfare Benefits Program.

10 [8-101.] 2-501.

11 (a) In this subtitle the following terms have the meanings indicated.

12 (b) "Program" means the State Employee and Retiree Health and Welfare
13 Benefits Program.

14 (c) "Satellite organization" means any organization or entity whose employees are
15 eligible to participate in the State Employee and Retiree Health and Welfare Benefits
16 Program as a separate account.

17 (d) "Secretary" means the Secretary of Budget and Fiscal Planning.

18 [8-102.] 2-502.

19 (a) There is a State Employee and Retiree Health and Welfare Benefits Program,
20 to be developed and administered by the Secretary.

21 (b) (1) The Program:

22 (i) subject to the regulations adopted under [§ 8-103] § 2-503 of this
23 subtitle, shall encompass all units in the executive, judicial, and legislative branches of
24 State government, including any unit with an independent personnel system;

25 (ii) shall include the health insurance benefit options established by
26 the Secretary; and

27 (iii) except as provided in paragraph (2) of this subsection, may include
28 any other benefit option that the Secretary considers appropriate.

29 (2) The Program may not contain any of the benefits provided under
30 Division II or Title 35 or Title 37 of this article.

31 [8-103.] 2-503.

32 (a) The Secretary shall:

33 (1) adopt regulations for the administration of the Program;

34 (2) ensure that the Program complies with all federal and Statelaws
35 governing employee benefit plans; and

16

1 (3) each year, recommend to the Governor the State share of the costs of
2 the Program.

3 (b) The Secretary may arrange as the Secretary considers appropriate any benefit
4 option for inclusion in the Program.

5 (c) The Secretary shall specify by regulation the types or categories of State
6 employees who:

7 (1) are eligible to enroll and participate in the Program with State subsidies;

8 (2) are eligible to enroll and participate in the Program without State
9 subsidies; and

10 (3) are not eligible to enroll or participate in the Program.

11 (d) (1) The regulations adopted by the Secretary shall include provisions for the
12 enrollment and participation of employees of all:

13 (i) organizations and entities that were participating in the Program
14 as satellite organizations on January 1, 1993; and

15 (ii) employee organizations that qualify for payroll deductions under
16 the provisions of [§ 6-402] § 2-403 of this [article] TITLE.

17 (2) Employees of organizations and entities covered by this section may
18 participate:

19 (i) without State subsidies; and

20 (ii) with payment by the organization or entity of administrative costs
21 resulting from the participation of its employees in the Program.

22 (3) The regulations adopted by the Secretary under this subsection shall
23 provide that an employee organization specified in paragraph (1)(ii) of this subsection:

24 (i) may not enroll or participate in the Program unless the
25 organization has notified the Secretary, in writing, on or before July 1, 1994 of the
26 organization's intent to enroll and participate in the Program during calendar year 1994;
27 and

28 (ii) may not enroll or participate in the Program on or after January 1,
29 1995 unless the organization has participated in the Program during calendar year 1994.

30 [8-104.] 2-504.

31 Each year the Governor shall include money in the State budget to pay the State
32 share of the costs of the Program.

33 [8-105.] 2-505.

34 (a) There is a State Employees' Health Insurance Advisory Council.

35 (b) The Advisory Council consists of the following 13 members:

36 (1) the Secretary or a designee of the Secretary; and

17

1 (2) a representative of each of the following, appointed by the Governor:

2 (i) the Department of Personnel;

3 (ii) the Department of Health and Mental Hygiene;

4 (iii) the University of Maryland System Administration;

5 (iv) the Department of Transportation;

6 (v) the Insurance Commissioner;

7 (vi) the State Comptroller;

8 (vii) the President of the Senate;

9 (viii) the Speaker of the House of Delegates;

10 (ix) the Maryland Classified Employees Association, Inc.;

11 (x) the American Federation of State, County, and Municipal
12 Employees;

13 (xi) the Maryland Troopers Association; and

14 (xii) the public.

15 (c) The Governor shall appoint a chairman from among the members of the
16 Advisory Council.

17 (d) The Secretary or the Secretary's designee shall serve as a continuing member.

18 (e) (1) The term of an appointed member is 2 years.

19 (2) The terms of appointed members are staggered as required by the terms
20 provided for members of the Advisory Council on September 30, 1993.

21 (3) At the end of a term, a member continues to serve until a successor is
22 appointed and qualifies.

23 (4) A member who is appointed after a term has begun serves for the rest of
24 the term and until a successor is appointed and qualifies.

25 [8-106.] 2-506.

26 (a) The Advisory Council shall advise the Secretary on:

27 (1) health insurance benefit options that should be included in the Program;

28 (2) types of health care providers that should be used to provide health
29 insurance benefits under the Program;

30 (3) procedures for soliciting bids or requesting proposals from health care
31 providers for contracts for the Program;

32 (4) the implementation, maintenance, and administration of the health
33 insurance benefits under the Program; and

18

1 (5) negotiations involving health insurance benefits under the Program.

2 (b) The Advisory Council shall meet at least quarterly at the times and places that
3 it determines.

4 (c) The Advisory Council shall:

5 (1) maintain a record of its meetings, proceedings, and transactions; and

6 (2) submit an annual report to the Governor and, subject to § 2-1312 of the
7 State Government Article, to the General Assembly.

8 (d) The Secretary shall give due consideration to the concerns expressed by the
9 Advisory Council members who are representatives of employee organizations.

10 (e) Each member of the Advisory Council is entitled to reimbursement for
11 expenses under the Standard State Travel Regulations, as provided in the State budget.

12 (f) The Department of Budget and Fiscal Planning shall provide administrative
13 support to the Advisory Council.

14 [8-107.] 2-507.

15 (a) Subject to the regulations adopted under [§ 8-103] § 2-503 of this subtitle, a
16 State employee may enroll and participate in any of the health insurance or other benefit
17 options established under the Program.

18 (b) The surviving spouse of a State employee who died while employed by the
19 State may enroll and participate in the health insurance benefit options established under
20 the Program as long as the surviving spouse is receiving an allowance under Title 29,
21 Subtitle 2 of this article.

22 (c) The surviving minor child or dependent parent of a State Police officer who
23 died while employed by the State may enroll and participate in the health insurance
24 benefit options established under the Program as long as the child or parent is receiving
25 an allowance under Title 29, Subtitle 2 of this article.

26 [8-108.] 2-508.

27 (a) (1) In this section the following words have the meanings indicated.

28 (2) "Creditable service" means:

29 (i) service credited toward a retirement allowance under Division II
30 of this article; or

31 (ii) service while a member of the Judges' Retirement System under
32 Title 27 of this article.

33 (3) (i) "Retiree" means:

34 1. a former State employee who receives a retirement allowance
35 under Division II of this article; or

20

1 (v) retired directly from State service with a State disability retirement
2 allowance on or after July 1, 1984.

3 (2) (i) The surviving spouse or dependent child of a deceased retiree who
4 was eligible to enroll may enroll and participate in the health insurance benefit options
5 established under the Program as long as the spouse or child is receiving an allowance
6 under Division II of this article.

7 (ii) Subparagraph (i) of this paragraph does not apply to a deceased
8 retiree's spouse or dependent child who receives an Option 1, Option 4, or Option 7
9 benefit under Division II of this article.

10 (c) (1) If a retiree receives a State disability retirement allowance or has 16 or
11 more years of creditable service, the retiree or the retiree's surviving spouse or dependent
12 child is entitled to the same State subsidy allowed a State employee.

13 (2) In all other cases, if a retiree has at least 5 years of creditable service,
14 the retiree or the retiree's surviving spouse or dependent child is entitled to 1/16 of the
15 State subsidy allowed a State employee for each year of the retiree's creditable service up
16 to 16 years.

17 (3) Notwithstanding [§ 8-108(a)(4)(i) and § 8-108(c)(2)] § 2-508(A)(4)(I)
18 AND (C)(2), if a retiree is an additional employee or agent of the State Racing
19 Commission, for the purposes of determining a retiree's State subsidy, creditable service
20 shall be determined with respect to service as an additional employee or agent beginning
21 from the initial date of employment or January 1, 1986, whichever is later.

22 [8-109.] 2-509.

23 (a) An individual may enroll and participate in the health insurance benefit
24 options established under the Program if the individual:

25 (1) retired under an optional Program under Title 30 of this article; and

26 (2) was in service with a State institution of higher education at the time of
27 the retirement.

28 (b) (1) An enrollee under this section is entitled to the same State subsidy
29 allowed a retiree under [§ 8-108] § 2-508 of this subtitle. However, except as provided in
30 paragraph (2) of this subsection, the subsidy shall apply only to the costs of coverage for
31 the enrollee and may not apply to any additional costs of coverage for the enrollee's
32 spouse or children.

33 (2) If the enrollee has 25 or more years of service as an employee of the
34 State in the executive, legislative, or judicial branch of government, the enrollee or the
35 enrollee's surviving spouse or dependent child is entitled to the same State subsidy
36 allowed a retiree with 16 or more years of creditable service under [§ 8-108(c)(1)] §
37 2-508(C)(1) of this subtitle.

38 [8-111.] 2-510.

39 (a) This section applies only to former Baltimore City Jail employees, as
40 described in § 23-201(a)(11) of this article.

21

1 (b) On retirement, a former Baltimore City Jail employee who elected to become
2 a member of the State Retirement and Pension System may elect to enroll and participate
3 in one of the following:

4 (1) the health insurance benefit options established under the Program,
5 subject to the same terms and conditions as those provided for retirees under [§ 8-108]
6 § 2-508 of this subtitle; or

7 (2) the Baltimore City Health Insurance Program for retirees, subject to the
8 same terms and conditions as those provided for members of the Employees' Retirement
9 System of the City of Baltimore.

10 (c) On retirement, a former Baltimore City Jail employee who elected to remain
11 a member of the Employees' Retirement System of the City of Baltimore:

12 (1) shall receive from the City of Baltimore the same health insurance
13 benefits granted to other members of the City's retirement system; and

14 (2) may not receive any health insurance benefits allowed a State retiree
15 under the Program.

16 [8-114.] 2-511.

17 (a) This section applies to employees of the Maryland Environmental Service.

18 (b) Subject to the regulations adopted under [§ 8-103] § 2-503 of this subtitle, an
19 employee or, while receiving an allowance under the Employees' Retirement System of
20 the State of Maryland or the Employees' Pension System of the State of Maryland, an
21 employee's surviving spouse:

22 (1) may enroll and participate in the health insurance or other benefit
23 options established under the Program; and

24 (2) except as provided in subsection (d) of this section, is subject to the same
25 terms and conditions as those provided under [§ 8-107] § 2-507 of this subtitle.

26 (c) While receiving an allowance under the Employees' Retirement System of the
27 State of Maryland or the Employees' Pension System of the State of Maryland, a former
28 employee or a former employee's surviving spouse or dependent child:

29 (1) may enroll and participate in the health insurance benefit options
30 established under the Program; and

31 (2) except as provided in subsection (d) of this section, is subject to the same
32 terms and conditions as those provided under [§ 8-108] § 2-508 of this subtitle, with the
33 employee's service with the Maryland Environmental Service being included as part of
34 the employee's State service.

35 (d) For each participant under this section, the Maryland Environmental Service
36 shall pay to the State an employer share of the cost of the Program based on the State
37 subsidy allowed under this subtitle.

22

1 [8-113.] 2-512.

2 (a) In this section, "qualifying not-for-profit organization" means an organization
3 that:

4 (1) receives State funds from the Department of Health and Mental
5 Hygiene that cover more than one-third of the organization's operating expenses; and

6 (2) is:

7 (i) described in § 501(c)(3) of the Internal Revenue Code;and

8 (ii) exempt from income tax under § 501(a) of the InternalRevenue
9 Code.

10 (b) The Secretary shall adopt regulations for the enrollment and participation of
11 employees of a qualifying not-for-profit organization to participate inthe Program as a
12 satellite organization.

13 (c) A qualifying not-for-profit organization that participates in the Program as a
14 satellite organization shall:

15 (1) pay to the State:

16 (i) a premium in the amount determined by the Secretary;

17 (ii) the costs assessed by the Secretary for settlement ofclaims and
18 expenses resulting from the participation of its employees in the Program; and

19 (iii) any costs, as determined by the Secretary, for the administration of
20 this Program; and

21 (2) determine the extent to which the organization will subsidize
22 participation by its employees in the Program.

23 [8-110.] 2-513.

24 (a) An employee of a county or municipal corporation may enroll and participate
25 in the health insurance benefit options established under the Program with the approval
26 of the governing body of the county or municipal corporation.

27 (b) The governing body of the county or municipal corporation shall:

28 (1) pay to the State the total costs resulting from the participation of its
29 employees in the Program; and

30 (2) determine the extent to which the county or municipal corporation will
31 subsidize participation by its employees in the Program.

32 [8-112.] 2-514.

33 (a) In addition to regular open enrollment periods, the Program shall provide
34 special open enrollment for health insurance benefit options established under the
35 Program for a nonparticipating State employee after the death of a spouse who was not a
36 State employee.

23

1 (b) Evidence of insurability may not be required under this section if the State
2 employee was covered under a group health insurance policy at the time of the death of
3 the employee's spouse.

4 [Title 11. Reinstatements.]

5 Subtitle [1.] 6. Reinstatements [Generally] TO STATE EMPLOYMENT.

6 [11-101.

7 Except as otherwise provided by law, in order to receive reinstatement privileges, a
8 former permanent classified service employee or a former permanent employee of the
9 University of Maryland System who is eligible for reinstatement must be appointed to a
10 classified service position within 2 years from separation from the employee's former
11 position.]

12 [11-102.

13 A former permanent employee who returns to State employment with an authorized
14 status of reinstatement:

15 (1) shall receive credit for time employed before separation for the purpose
16 of determining the employee's:

17 (i) step in the pay grade applicable to the employee's class;

18 (ii) rate of annual leave accrual; and

19 (iii) seniority rights; and

20 (2) shall have unused accumulated sick leave restored.]

21 2-601.

22 (A) A FORMER STATE PERMANENT EMPLOYEE WHO RETURNS TO STATE
23 EMPLOYMENT WITHIN 3 YEARS FROM SEPARATION IS REINSTATED.

24 (B) A REINSTATED STATE EMPLOYEE SHALL HAVE UNUSED ACCUMULATED
25 SICK LEAVE RESTORED.

26 (C) (1) A FORMER PERMANENT EMPLOYEE WHO IS REINSTATED IN THE
27 STATE PERSONNEL MANAGEMENT SYSTEM SHALL RECEIVE CREDIT FOR TIME
28 EMPLOYED BEFORE SEPARATION FOR THE PURPOSE OF DETERMINING THE
29 EMPLOYEE'S:

30 (I) STEP IN THE PAY GRADE APPLICABLE TO THE EMPLOYEE'S
31 CLASS;

32 (II) RATE OF ANNUAL LEAVE ACCRUAL; AND

33 (III) SENIORITY RIGHTS.

24

1 (2) A FORMER PERMANENT STATE EMPLOYEE WHO RETURNS TO A
2 POSITION IN AN INDEPENDENT PERSONNEL SYSTEM SHALL RECEIVE BENEFITS
3 ALLOWED BY THAT PERSONNEL SYSTEM.

4 Subtitle [2.] 7. Reinstatement of Veterans.

5 [11-201.] 2-701.

6 In this subtitle, "returning veteran":

7 (1) means an individual who left State employment to perform military
8 service in the armed forces of the United States and who seeks reinstatement to State
9 employment; and

10 (2) does not include an individual who left State employment while serving
11 as a temporary extra or emergency employee.

12 [11-202.] 2-702.

13 This subtitle applies to all units in the executive, judicial, and legislative branches of
14 State government, including any unit with an independent personnel system.

15 [11-203.] 2-703.

16 (a) A returning veteran who was inducted into the armed forces is eligible for
17 reinstatement under this subtitle if the veteran:

18 (1) performed military service of a nature and length that meet the criteria
19 for eligibility under 38 U.S.C. § 4301(a);

20 (2) received a certificate of satisfactory completion of military service; and

21 (3) except as otherwise provided in § 11-204 of this subtitle, submits an
22 application for reinstatement within 90 days after the veteran is discharged from that
23 military service.

24 (b) A returning veteran who enlisted in the armed forces is eligible for
25 reinstatement under this subtitle if the veteran:

26 (1) performed military service of a nature and length that meet the criteria
27 for eligibility under 38 U.S.C. § 4304(a);

28 (2) was released from service under honorable conditions; and

29 (3) except as otherwise provided in § 11-204 of this subtitle, submits an
30 application for reinstatement within 90 days after the end of the enlistment period.

31 (c) A returning veteran who was called to active military duty in the armed forces
32 is eligible for reinstatement under this subtitle if the veteran:

33 (1) performed military service of a nature and length that meet the criteria
34 for eligibility under 38 U.S.C. § 4304(b);

35 (2) was relieved from active duty under honorable conditions; and

25

1 (3) except as otherwise provided in § 11-204 of this subtitle, submits an
2 application for reinstatement within 90 days after the veteran is relieved from that duty.

3 [11-204.] 2-704.

4 An otherwise eligible returning veteran who was hospitalized at the time of
5 discharge, end of enlistment, or relief from active duty may apply for reinstatement if:

6 (1) the application is submitted within 90 days after the returning veteran is
7 discharged from the hospital; and

8 (2) the hospitalization does not last more than 1 year from the date of
9 discharge, end of enlistment, or relief from active duty.

10 [11-205.] 2-705.

11 (a) A returning veteran who meets the requirements of this subtitle shall be
12 reinstated:

13 (1) to the class previously held by the returning veteran within the principal
14 department or other independent unit in which the returning veteran had been employed;
15 or

16 (2) to a position of equal responsibilities, qualifications, and rate of pay.

17 (b) If, because of a disability sustained during military service, a returning veteran
18 is not qualified to perform the duties of the position that the veteran previously held, the
19 returning veteran shall be reinstated to a position that:

20 (1) has duties that the veteran is qualified to perform; and

21 (2) provides the rate of pay, seniority, and status that are the same as or as
22 similar as the circumstances of the case allow to those of the position previously held by
23 the veteran.

24 (c) Subsections (a) and (b) of this section need not be implemented if the
25 circumstances in State government have changed to the extent that implementation is
26 impossible or unreasonable.

27 [11-206.] 2-706.

28 (a) A returning veteran who is reinstated under this subtitle is entitled to start at
29 the salary and rate of leave accrual that the veteran would have attained if employment
30 with this State had been continuous.

31 (b) In calculating seniority, status, and length of State employment of a returning
32 veteran who is reinstated under this subtitle, the period from the day the veteran entered
33 military service to the day that the veteran is reinstated shall be added to the period of
34 the veteran's State employment.

35 (c) A returning veteran who is reinstated under this subtitle is entitled to:

36 (1) all benefits and privileges, including rate of pay, that result from the
37 additional seniority and status credited under subsection (b) of this section;

26

1 (2) pension and retirement rights as determined under Article 65, § 88 of
2 the Code; and

3 (3) any classified service status that the veteran had when the veteran
4 entered military service, with adjustments to reflect the additional seniority credited
5 under subsection (b) of this section.

6 (d) A returning veteran who is reinstated to a position under this subtitle may not
7 be discharged from that position within 1 year after reinstatement without substantial
8 cause and, if the position is a classified service position, only for the reasons and in the
9 manner provided for classified service employees.

10 [11-207.] 2-707.

11 (a) A member of a reserve component of the armed forces of the United States is
12 eligible for the reinstatement rights and benefits specified in §§ 11-205 and 11-206 (a),
13 (b), and (c) of this subtitle if the reservist:

14 (1) performed active duty for training of a nature and length that meet the
15 requirements for eligibility under Title 38 U.S.C. § 4304(c);

16 (2) was released from that duty after satisfactory service; and

17 (3) except as provided in subsection (b) of this section, submits an
18 application for reinstatement within 31 days after the reservist was released from that
19 duty.

20 (b) An otherwise eligible member of a reserve component who was hospitalized at
21 the time the reservist was scheduled to be released from active duty for training may
22 apply for reinstatement if:

23 (1) the application is submitted within 31 days after the reservist is
24 discharged from the hospital; and

25 (2) the hospitalization:

26 (i) is connected to the reservist's active duty for training; and

27 (ii) does not last more than 1 year from the date on which the reservist
28 was scheduled to be released from that duty.

29 (c) A member of a reserve component who is reinstated to a position under this
30 section may not be discharged from that position within 6 months after reinstatement
31 without substantial cause and, if the position is a classified service position, only for the
32 reasons and in the manner provided for classified service employees.

27

1 TITLE 3. RESERVED.

2 Title [2.] 4. Department of Personnel.

3 Subtitle 1. General Provisions.

4 [2-101.] 4-101.

5 There is a Department of Personnel, which is a principal department of the State
6 government.

7 [2-102.] 4-102.

8 (a) The head of the Department is the Secretary of Personnel, who shall be
9 appointed by the Governor with the advice and consent of the Senate.

10 (b) The Secretary must have experience in personnel matters and employee
11 relations.

12 (c) Before taking office, the appointee shall take the oath required by Article I, §
13 9 of the Maryland Constitution.

14 (d) The Secretary serves at the pleasure of the Governor and is responsible
15 directly to the Governor. The Secretary shall advise the Governor on all matters relating
16 to employees in the State Personnel Management System and is responsible for carrying
17 out the Governor's policies on personnel matters.

18 (e) The Secretary is entitled to the salary provided in the State budget.

19 [2-103.] 4-103.

20 (a) The Secretary shall carry out those provisions of this Division I that are
21 subject to the authority of the Secretary.

22 (b) The Secretary is responsible for the operation of the Department and shall
23 establish guidelines and procedures to promote the orderly and efficient administration
24 of the Department. The Secretary may establish, reorganize, or abolish areas of
25 responsibility in the Department as necessary to fulfill effectively the duties assigned to
26 the Secretary.

27 (c) The Secretary is responsible for establishing policy to be followed by the units
28 in the Department.

29 [2-104.] 4-104.

30 (a) (1) With the approval of the Governor, the Secretary shall appoint a deputy
31 secretary.

32 (2) The deputy secretary:

33 (i) serves at the pleasure of the Secretary;

34 (ii) is entitled to the salary provided in the State budget; and

35 (iii) has the duties provided by law or delegated by the Secretary.

28

1 (b) (1) The Secretary may appoint a staff in accordance with the Code and the
2 State budget.

3 (2) Each assistant secretary and each professional consultant is appointed
4 by and serves at the pleasure of the Secretary.

5 (3) Unless otherwise provided by law, the Secretary shall appoint and
6 remove all other staff in the Department in accordance with this Division I.

7 (4) The Secretary may review personnel actions of a unit of State
8 government within the authority of the Department.

9 [2-105.]4-105.

10 (a) The Secretary is responsible for the budget of the Office of the Secretary and
11 for the budget of each unit in the Department.

12 (b) The Secretary may create advisory units of any size that the Secretary
13 considers appropriate for the operation of the Department.

14 (c) The Secretary shall have a seal.

15 (d) (1) The Secretary is responsible for the comprehensive planning of
16 programs and services of the Department.

17 (2) The Secretary shall review the plans of the units in the Department and
18 may approve, disapprove, or revise any of the plans.

19 [2-106] 4-106.

20 (a) [The Secretary shall adopt regulations to carry out those provisions of this
21 Division I that are subject to the authority of the Secretary.] TO CARRY OUT THOSE
22 PROVISIONS OF THIS DIVISION I THAT ARE SUBJECT TO THE AUTHORITY OF THE
23 SECRETARY, THE SECRETARY MAY ADOPT REGULATIONS, GUIDELINES, OR
24 POLICIES.

25 (b) [The Secretary shall review and may approve, disapprove, or revise
26 regulations of any unit in the Department.] AFTER CONSULTATION WITH THE OFFICE
27 OF ADMINISTRATIVE HEARINGS, THE SECRETARY SHALL ADOPT REGULATIONS
28 GOVERNING PEER REVIEW PANELS, THAT INCLUDE PROCEDURES FOR A PRINCIPAL
29 UNIT TO ESTABLISH PEER REVIEW PANELS AS AN ALTERNATIVE MECHANISM FOR
30 DISPUTE RESOLUTION UNDER TITLES 11 AND 12 OF THIS ARTICLE.

31 [2-107.

32 (a) (1) Subject to the approval of the Governor, the Secretary shall establish
33 classes and classify all positions in the classified service and the unclassified service.

34 (2) The Secretary shall ensure that each class comprises one or more
35 positions:

36 (i) that are similar in their duties and responsibilities;

37 (ii) that are similar in the general qualifications required to perform
38 those duties and responsibilities;

29

1 (iii) to which the same standards and, if required, tests of fitness can be
2 applied; and

3 (iv) to which the same rates of pay can be applied.

4 (3) The Secretary shall give each class a descriptive classification title that
5 indicates the character and rank of employment.

6 (4) Subject to the approval of the Governor, the Secretary shall, when
7 necessary:

8 (i) create additional classes; and

9 (ii) abolish, combine, or modify existing classes.

10 (b) (1) Each employee in a position shall assume the classification title given
11 the class to which that position belongs.

12 (2) The Secretary, the Comptroller, and the Treasurer shall use these
13 classification titles in all relevant records and communications.

14 (c) (1) A material change in the duties of a position operates to abolish the
15 position and create a new position in its place.

16 (2) The Secretary shall classify each new position created under paragraph
17 (1) of this subsection.

18 (d) (1) To ensure that positions are classified properly, the Secretary
19 periodically shall conduct a classification audit of a random sample of all positions under
20 the salary jurisdiction of the Secretary.

21 (2) The Secretary may order a unit to take appropriate action to bring a
22 position into compliance with the classification audit and findings of the Secretary.

23 (3) If the Secretary determines that a filled position is underclassified, the
24 Secretary shall reclassify the position effective immediately or at any other time on or
25 before the first day of the next fiscal year after the determination.

26 (4) If the Secretary determines that a filled position is overclassified, the
27 Secretary shall reclassify the position effective on the first day of the third fiscal year after
28 the determination.

29 (e) (1) If the Secretary determines that a position is classified improperly, the
30 Secretary shall reclassify the position to a class that is more appropriate for that position.

31 (2) A reclassification under this section may be to any appropriate class that
32 is at the same or at a higher or lower salary level.

33 (3) An employee whose position is reclassified to a class at a lower salary
34 level may grieve the reclassification under Title 10 of this article.

35 (4) The Secretary shall adopt regulations to provide for the effective date of
36 any reclassification.]

30

1 [2-108.] 4-107.

2 For efficiency and economy in State government, the Secretary shall:

3 (1) conduct reviews of positions in the State Personnel Management System;

4 and

5 (2) recommend to the appointing authority a plan of reorganization,
6 reassignment, or elimination of the positions reviewed.

7 [2-109.]4-108.

8 (a) As to matters subject to the authority of the Secretary, the Secretary
9 periodically shall conduct investigations and, as necessary, visits to various units to
10 determine:

11 (1) the enforcement and effect of this Division I and the regulations
12 adopted under it;

13 (2) the conduct of employees in the State Personnel Management System;

14 (3) the nature, tenure, and compensation of all positions in the State
15 Personnel Management System;

16 (4) [whether an employee is in the appropriate class] THE
17 APPROPRIATENESS OF POSITION CLASSIFICATIONS BY APPOINTING AUTHORITIES;

18 (5) whether the duties performed by an employee conform to the duties
19 listed for that employee's class OF WORK;

20 (6) the methods of administration of the State Personnel Management
21 System; and

22 (7) any other information that might help the Secretary to administer this
23 Division I.

24 (b) In conducting an investigation under this section, the Secretary may require
25 any employee in the State Personnel Management System to appear before the Secretary
26 or the Secretary's designee and give evidence.

27 [2-110.] 4-109.

28 (a) As part of any investigation or hearing under this Division I, the Secretary or
29 the person that the Secretary designates to conduct the investigation or hearing may
30 administer oaths, take testimony and other evidence, and subpoena any person or any
31 relevant document.

32 (b) If a person fails to comply with a subpoena or refuses to be sworn or to testify,
33 then, on complaint of the Secretary, a circuit court may order the person to comply with
34 the subpoena, to be sworn, or to testify.

35 [2-111.] 4-110.

36 (a) The Attorney General is legal adviser to the Department.

31

1 (b) The Attorney General shall assign to the Department the number of assistant
2 attorneys general authorized by law for the Department [and its units].

3 (c) (1) The Attorney General shall designate an assistant attorney general
4 assigned to the Department as counsel to the Department. After the Attorney General
5 designates the counsel to the Department, the Attorney General may not reassign the
6 counsel without consulting the Secretary.

7 (2) The counsel to the Department [may have no other duty than to]
8 SHALL:

9 (i) give the legal aid, advice, and counsel required by the Secretary or
10 another official of the Department;

11 (ii) supervise the other assistant attorneys general assigned to the
12 Department; and

13 (iii) perform for the Department the duties that the Attorney General
14 assigns.

15 (3) The counsel to the Department shall perform these duties subject to the
16 discretion and control of the Attorney General.

17 SUBTITLE 2. CLASSES AND POSITION CLASSIFICATIONS.

18 4-201.

19 (A) THE SECRETARY SHALL:

20 (1) ESTABLISH CLASSES;

21 (2) ASSIGN A RATE OF PAY TO EACH CLASS;

22 (3) ENSURE THAT EACH CLASS COMPRISES ONE OR MORE POSITIONS:

23 (I) THAT ARE SIMILAR IN THEIR DUTIES AND RESPONSIBILITIES;

24 (II) THAT ARE SIMILAR IN THE GENERAL QUALIFICATIONS
25 REQUIRED TO PERFORM THOSE DUTIES AND RESPONSIBILITIES;

26 (III) TO WHICH THE SAME STANDARDS AND, IF REQUIRED, TESTS
27 OF FITNESS CAN BE APPLIED; AND

28 (IV) TO WHICH THE SAME RATES OF PAY CAN BE APPLIED;

29 (4) GIVE EACH CLASS A DESCRIPTIVE CLASSIFICATION TITLE;

30 (5) PREPARE A DESCRIPTION OF EACH CLASS; AND

31 (6) (I) CREATE ADDITIONAL CLASSES; AND

32 (II) ABOLISH, COMBINE, OR MODIFY EXISTING CLASSES.

33 (B) THE SECRETARY SHALL:

32

1 (1) ASSIGN A CLASS TO THE SKILLED SERVICE, PROFESSIONAL SERVICE,
2 MANAGEMENT SERVICE, OR EXECUTIVE SERVICE, AS APPROPRIATE; AND

3 (2) DESIGNATE POSITIONS THAT ARE FILLED BY SPECIAL
4 APPOINTMENT.

5 4-202.

6 THE SECRETARY SHALL:

7 (1) ESTABLISH STANDARDS AND GENERAL PROCEDURES TO BE USED
8 TO CLASSIFY POSITIONS IN THE SKILLED SERVICE, PROFESSIONAL SERVICE,
9 MANAGEMENT SERVICE, AND EXECUTIVE SERVICE; AND

10 (2) PROVIDE TRAINING AND GUIDANCE ON THE USE OF THOSE
11 STANDARDS AND PROCEDURES.

12 4-203.

13 (A) THE HEAD OF A PRINCIPAL UNIT SHALL SUBMIT FOR THE SECRETARY'S
14 APPROVAL A POSITION CLASSIFICATION PLAN FOR CLASSIFYING POSITIONS IN THE
15 UNIT THAT ARE IN THE SKILLED SERVICE, PROFESSIONAL SERVICE, AND
16 MANAGEMENT SERVICE.

17 (B) THE HEAD OF A PRINCIPAL UNIT OR DESIGNEE SHALL CLASSIFY SKILLED
18 SERVICE POSITIONS, PROFESSIONAL SERVICE POSITIONS, AND MANAGEMENT
19 SERVICE POSITIONS IN THE UNIT IN ACCORDANCE WITH THE APPROVED
20 CLASSIFICATION PLAN.

21 (C) (1) EACH EMPLOYEE IN A POSITION SHALL ASSUME THE
22 CLASSIFICATION TITLE GIVEN THE CLASS TO WHICH THAT POSITION BELONGS.

23 (2) THE SECRETARY, THE COMPTROLLER, AND THE TREASURER SHALL
24 USE THESE CLASSIFICATION TITLES IN ALL RELEVANT RECORDS AND
25 COMMUNICATIONS.

26 (D) TO ENSURE THAT POSITIONS IN THE STATE PERSONNEL MANAGEMENT
27 SYSTEM ARE CLASSIFIED PROPERLY, THE SECRETARY:

28 (1) SHALL CONDUCT POSITION CLASSIFICATION AUDITS; AND

29 (2) SHALL CONDUCT OPERATIONAL AUDITS OF CLASSIFICATION
30 PRACTICES AND RECORDS IN UNITS AS NECESSARY.

31 4-204.

32 (A) THE SECRETARY MAY:

33 (1) CLASSIFY POSITIONS IN A UNIT WHEN, IN THE SECRETARY'S
34 JUDGMENT, IT IS NECESSARY TO PRESERVE THE INTEGRITY OF THE
35 CLASSIFICATION SYSTEM; AND

36 (2) ORDER THE HEAD OF A PRINCIPAL UNIT TO:

33

1 (I) TAKE APPROPRIATE ACTION TO PROPERLY CLASSIFY A
2 POSITION OR TAKE OTHER APPROPRIATE ACTION TO COMPLY WITH A POSITION
3 CLASSIFICATION AUDIT; OR

4 (II) MODIFY THE UNIT'S CLASSIFICATION PRACTICES TO COMPLY
5 WITH THE FINDINGS OF AN OPERATIONAL AUDIT.

6 (B) (1) THE SECRETARY SHALL DETERMINE THE EFFECTIVE DATES FOR
7 NEWLY CREATED OR MODIFIED CLASSES, POSITION CLASSIFICATION PLANS, AND
8 CLASSIFICATION STANDARDS AND PROCEDURES.

9 (2) THE SECRETARY SHALL ADOPT REGULATIONS TO PROVIDE FOR
10 EFFECTIVE DATES OF POSITION RECLASSIFICATIONS.

11 Subtitle [2.] 3. Reports and Assistance.

12 [2-201.] 4-301.

13 On or before October 15 of each year, each unit of the executive branch of State
14 government shall submit to the Secretary the information that the Secretary requires on
15 the handling and disposition during the preceding fiscal year of each:

16 (1) denial of [increment] A PAY INCREASE;

17 (2) disciplinary suspension;

18 (3) grievance;

19 (4) involuntary demotion; and

20 (5) rejection on probation.

21 [2-202.] 4-302.

22 (a) The Secretary shall submit to the Governor and, subject to § 2-1312 of the
23 State Government Article, to the General Assembly an annual report for each fiscal year
24 that:

25 (1) [generally describes the activities of the Secretary under this Division I]
26 PROVIDES INFORMATION ABOUT THE VARIOUS PERSONNEL AREAS UNDER THE
27 SECRETARY'S JURISDICTION, INCLUDING:

28 (I) EMPLOYEE PERFORMANCE AND EFFICIENCY;

29 (II) USE OF LEAVE BY STATE EMPLOYEES;

30 (III) INCENTIVE AWARDS;

31 (IV) WHISTLEBLOWER PROCEEDINGS;

32 [(2) makes any recommendations about conditions in State employment that
33 the Secretary considers advisable;]

34 [(3)] (2) provides statistics and rankings that compare minority group State
35 employees to all State employees in all job categories;

34

1 [(4) indicates the number and salaries of employees in each unit that the
2 Department determines under Title 4, Subtitle 5 of this article to be below a fair standard
3 of performance and efficiency;

4 (5) describes all Whistleblower Law proceedings taken under Title 3,
5 Subtitle 3 of this article;

6 (6) provides the following information about contractual employment
7 during the previous fiscal year:

8 (i) a list of exemptions granted under Title 12, Subtitle 2 of this
9 article;

10 (ii) a summary, by principal department or other independent unit, of
11 certificates issued under § 12-202 of this article;

12 (iii) a summary of the results of audits conducted under §12-205(a) of
13 this article; and

14 (iv) a detailed description of actions taken under § 12-205(b) of this
15 article;

16 (7) indicates the categories and amounts of leave taken by State employees;

17 (8) provides the following information about part-time employment:

18 (i) the activities undertaken to carry out the policy stated in § 5-104 of
19 this article;

20 (ii) the extent to which the requirements of § 5-104 of this article have
21 been met; and

22 (iii) any impediments to meeting those requirements and the measures
23 taken to remove those impediments; and

24 (9) includes all incentive awards conferred under Title 8, Subtitle 2 of this
25 article.]

26 (3) PROVIDES INFORMATION ABOUT PART-TIME WORK AND, IN THE
27 SECRETARY'S DISCRETION, ALTERNATE WORK SCHEDULES, WORK DAYS, AND
28 WORK LOCATIONS; AND

29 (4) MAKES ANY RECOMMENDATIONS ABOUT CONDITIONS IN STATE
30 EMPLOYMENT THAT THE SECRETARY CONSIDERS ADVISABLE.

31 (b) The report required by this section shall be submitted on or before January 1
32 following the fiscal year to which it applies.

33 [2-204.] 4-303.

34 (A) ON THE REQUEST OF A UNIT OF STATE GOVERNMENT, THE SECRETARY,
35 CONSISTENT WITH AVAILABLE RESOURCES, SHALL OFFER ASSISTANCE TO THE UNIT
36 IN PERSONNEL AND EMPLOYEE RELATIONS MATTERS.

35

1 [(a)] (B) (1) On request to the Secretary, the Department, CONSISTENT WITH
2 AVAILABLE RESOURCES, shall assist any county or municipal corporation of the State
3 that adopts a merit system for its employees, so that merit systems maybe administered
4 throughout [this] THE State without unnecessary expense.

5 [(b)] (2) The Department shall assist the county or municipal corporation making
6 the request by:

7 [(1)] (I) helping to test candidates for positions;

8 [(2)] (II) helping to prepare regulations; and

9 [(3)] (III) making available the full use of the facilities of the Department.

10 [(c) (1)] (3) (I) Except as provided in [paragraph (2) of this subsection]
11 SUBPARAGRAPH (II) OF THIS PARAGRAPH, the Department shall provide the assistance
12 required by this subsection without charge.

13 [(2)] (II) A county or municipal corporation shall reimburse the
14 Department for travel and other expenses that the Department incurs because of the use
15 of departmental facilities by that county or municipal corporation.

16 [2-205.] 4-304.

17 (a) On request of the Secretary, all employees and officers of [this] THE State
18 shall assist the Department in all proper ways in carrying out this Division I and the
19 regulations AND GUIDELINES adopted under it. This assistance shall be provided as a
20 public duty and without extra compensation.

21 (b) On request of the Secretary, all employees and officers of [this] THE State or
22 of a county or municipal corporation of [this] THE State shall:

23 (1) allow the Department reasonable use of public buildings for tests or
24 investigations under this Division I;

25 (2) provide heat and light for the public buildings used by the Department
26 under this subsection; and

27 (3) in all other proper ways, facilitate the work of the Department.

28 [Subtitle 3. Delegation of Hearing Authority.]

29 SUBTITLE 4. HEARINGS AND FINAL DECISIONS.

30 [2-301.

31 The Secretary may delegate to the Office of Administrative Hearings the authority
32 to conduct a hearing and issue a final decision in any of the following:

33 (1) a grievance under § 14-1B-06 of the Education Article or § 10-209(b) of
34 this article; and

35 (2) an appeal under § 6-107(d)(1) of this article from the denial of a pay
36 increment.]

36

1 [2-302.

2 The Secretary may delegate to the Office of Administrative Hearings the authority
3 to conduct a hearing and issue a proposed decision for approval by the Secretary in any of
4 the following:

5 (1) a Whistleblower Law hearing under § 3-308 of this article;

6 (2) a hearing under § 4-504 of this article on an unsatisfactory work or
7 conduct report;

8 (3) an appeal under § 4-604 of this article from the proposed demotion of
9 an employee;

10 (4) an appeal under § 9-103 of this article by an employee who is rejected
11 while on probation as a result of a promotion;

12 (5) an appeal under § 9-205 of this article from charges for removal of an
13 employee;

14 (6) a preliminary hearing under § 9-303 of this article on the suspension of
15 an employee pending removal;

16 (7) an appeal under § 9-406 of this article from the disciplinary suspension
17 of an employee; and

18 (8) an appeal under Article 29, § 11-109(b) of the Code from the removal of
19 an employee of the Washington Suburban Sanitary Commission.]

20 [2-303.

21 The Secretary may delegate to the deputy secretary, an assistant secretary, or
22 another official in the Department whose duties are unrelated to the hearing process, the
23 authority to approve any of the following:

24 (1) a proposed decision issued under § 2-302 of this subtitle; and

25 (2) a proposed decision issued in a grievance arbitration under § 10-209(c)
26 of this article.]

27 [2-304.

28 In an appeal submitted to the Secretary under Title 13, Subtitle 1A of the
29 Education Article, the Secretary may delegate authority in a way that is consistent with
30 the other delegations allowed under this subtitle.]

31 [2-305.

32 Within 30 days after a delegation of authority is made under this subtitle, the
33 Secretary shall publish notice of the delegation in the Maryland Register.]

34 4-401.

35 THE SECRETARY MAY DELEGATE TO THE OFFICE OF ADMINISTRATIVE
36 HEARINGS THE AUTHORITY TO CONDUCT A HEARING AND ISSUE A FINAL DECISION
37 IN:

37

1 (1) A WHISTLEBLOWER LAW HEARING UNDER § 5-213 OF THIS ARTICLE;

2 (2) AN APPEAL UNDER § 11-109 OF THIS ARTICLE OF A DISCIPLINARY
3 ACTION;

4 (3) A GRIEVANCE UNDER § 12-205 OF THIS ARTICLE; AND

5 (4) AN APPEAL UNDER ARTICLE 29, § 11-109(B) OF THE CODE FOR THE
6 REMOVAL OF AN EMPLOYEE OF THE WASHINGTON SUBURBAN SANITARY
7 COMMISSION.

8 Title [3.] 5. Employee Rights and Protections [Generally].

9 Subtitle [6.] 1. Notice of Personnel Provisions TO STATE PERSONNEL MANAGEMENT
10 EMPLOYEES.

11 [3-601.

12 This subtitle applies to all classified service and unclassified service employees in
13 the State Personnel Management System.]

14 [3-602.] 5-101.

15 All employees [subject to this subtitle] IN THE STATE PERSONNEL
16 MANAGEMENT SYSTEM shall be notified of the location, at the work site, of a copy of:

17 (1) this Division I of this article; and

18 (2) all applicable personnel [policies] POLICIES, GUIDELINES, and
19 regulations.

20 Subtitle [4.] 2. Equal Employment Opportunity Program IN THE EXECUTIVE BRANCH
21 OF STATE GOVERNMENT.

22 [3-401.] 5-201.

23 (a) In this subtitle the following words have the meanings indicated.

24 (b) "Coordinator" means the Equal Employment Opportunity Coordinator.

25 (c) "Program" means the Equal Employment Opportunity Program established
26 under this subtitle.

27 (d) "Unit" means [any] A unit of the executive branch of State government.

28 [3-402.] 5-202.

29 [This subtitle applies only to:

30 (1) all employees in the State Personnel Management System who are
31 employed in any unit of the executive branch of State government; and

32 (2) applicants for employment in the classified service of the executive
33 branch of State government.]

38

1 EXCEPT AS PROVIDED IN § 5-209 OF THIS SUBTITLE, IN ADDITION TO ANY
2 RIGHT TO FILE AN EMPLOYMENT DISCRIMINATION WITH THE MARYLAND
3 COMMISSION ON HUMAN RELATIONS, WITH THE EQUAL EMPLOYMENT
4 OPPORTUNITY COMMISSION, OR IN COURT, AN EMPLOYEE MAY ELECT TO PURSUE
5 AN ALLEGATION OF EMPLOYMENT DISCRIMINATION UNDER THE COMPLAINT
6 RESOLUTION PROCEDURES OF THIS SUBTITLE.

7 [3-403.] 5-203.

8 (a) There is an Equal Employment Opportunity Program, which is under the
9 authority of the Secretary.

10 (b) The purpose of the Program is to ensure a system based on merit that provides
11 equal opportunity in employment on the basis of merit and fitness.

12 (C) THE FOLLOWING EMPLOYEES AND APPLICANTS FOR EMPLOYMENT ARE
13 INCLUDED IN THE PROGRAM:

14 (1) AN EMPLOYEE IN ANY UNIT OF THE EXECUTIVE BRANCH OF STATE
15 GOVERNMENT, INCLUDING A UNIT WITH AN INDEPENDENT PERSONNEL SYSTEM;
16 AND

17 (2) AN APPLICANT FOR A POSITION IN THE SKILLED SERVICE,
18 PROFESSIONAL SERVICE, OR MANAGEMENT SERVICE, OF THE STATE PERSONNEL
19 MANAGEMENT SYSTEM OR A COMPARABLE POSITION IN AN INDEPENDENT
20 PERSONNEL SYSTEM IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT.

21 [3-404.] 5-204.

22 [(a) The Secretary shall:

23 (1) develop the Program; and

24 (2) adopt and enforce regulations to implement the Program.

25 (b) The regulations adopted under this section shall comply with all applicable
26 State and federal laws governing equal employment opportunity.]

27 THE SECRETARY SHALL:

28 (1) ADMINISTER THE PROGRAM IN COMPLIANCE WITH ALL APPLICABLE
29 STATE AND FEDERAL LAWS GOVERNING EQUAL EMPLOYMENT OPPORTUNITY;

30 (2) ADOPT REGULATIONS TO IMPLEMENT THE PROGRAM;

31 (3) EVALUATE THE EQUAL EMPLOYMENT EFFORTS IN EACH UNIT IN
32 THE PROGRAM;

33 (4) TAKE ANY ACTION NECESSARY AND PERMITTED BY LAW TO
34 ENFORCE THIS SUBTITLE; AND

35 (5) AT LEAST ANNUALLY REPORT ON THE PROGRAM TO THE
36 GOVERNOR.

39

1 [3-405.

2 (a) Except as provided in subsection (c) of this section, all personnel actions
3 concerning any classified service employee or applicant for employment in the classified
4 service shall be made without regard to:

5 (1) age;

6 (2) ancestry;

7 (3) color;

8 (4) creed;

9 (5) marital status;

10 (6) mental or physical disability;

11 (7) national origin;

12 (8) political affiliation, belief, or opinion;

13 (9) race;

14 (10) religious affiliation, belief, or opinion;

15 (11) sex; or

16 (12) any other nonmerit factor.

17 (b) Except as provided in subsection (c) of this section, all personnel actions
18 concerning any employee in the State Personnel Management System who is not in the
19 classified service shall be made without regard to any factor in subsection (a)(1) through
20 (7) and (9) through (11) of this section.

21 (c) An action may be taken with regard to age, sex, or disability to the extent that
22 age, sex, or physical or mental qualification is a bona fide occupational qualification.]

23 [3-406.

24 In accordance with the provisions and intent of the Maryland Constitution and
25 other laws of this State, each unit shall cooperate fully with the Secretary and shall
26 comply with all applicable regulations and directives for implementing the policy of this
27 State against discrimination in employment.]

28 [3-407.

29 The Secretary periodically shall:

30 (1) evaluate the Program within each unit; and

31 (2) consult with and solicit recommendations from interested persons about
32 the Program.]

40

1 5-205.

2 (A) IN ACCORDANCE WITH THE PROVISIONS AND INTENT OF THE MARYLAND
3 CONSTITUTION AND OTHER LAWS OF THE STATE, EACH UNIT SHALL:

4 (1) COMPLY WITH ALL APPLICABLE REGULATIONS, POLICIES,
5 GUIDELINES, AND DIRECTIVES OF THE SECRETARY TO CARRY OUT THIS SECTION;

6 (2) COOPERATE FULLY WITH THE COORDINATOR IN THE
7 INVESTIGATION OF COMPLAINTS OF DISCRIMINATION IN VIOLATION OF § 5-208 OF
8 THIS SUBTITLE;

9 (3) (I) IN ACCORDANCE WITH THE REGULATIONS, POLICIES,
10 GUIDELINES, AND DIRECTIVES OF THE SECRETARY, ANNUALLY PREPARE A PLAN
11 THAT INCLUDES THE DEVELOPMENT AND IMPLEMENTATION OF POLICIES AND
12 PROGRAMS TO ENSURE THAT PROTECTED GROUP MEMBERS ARE APPROPRIATELY
13 REPRESENTED AND THAT THE PERSONNEL PRACTICES IN THE UNIT ARE NOT
14 DISCRIMINATORY; AND

15 (II) SUBMIT TO THE SECRETARY THE PROGRESS REPORTS ABOUT
16 THE PLAN THAT THE SECRETARY REQUIRES;

17 (4) FOR EACH FISCAL YEAR, SUBMIT TO THE COORDINATOR BY THE
18 FOLLOWING OCTOBER 15 AN ANNUAL REPORT ABOUT THE ACTIVITIES THAT THE
19 UNIT UNDERTOOK IN THAT FISCAL YEAR TO IMPLEMENT THE PROGRAM,
20 INCLUDING:

21 (I) INFORMATION ABOUT PERSONNEL PRACTICES WITHIN THE
22 UNIT;

23 (II) A SUMMARY OF COMPLAINTS FILED, INVESTIGATED,
24 RESOLVED, AND PENDING; AND

25 (III) INFORMATION ABOUT RELATIONS WITH OTHER UNITS OF
26 STATE GOVERNMENT; AND

27 (5) PROVIDE A COPY OF THE ANNUAL REPORT TO THE MARYLAND
28 HUMAN RELATIONS COMMISSION.

29 (B) AN APPOINTING AUTHORITY SHALL PROVIDE EACH EMPLOYEE SUBJECT
30 TO THIS SUBTITLE WITH A NOTICE OF:

31 (1) THE PROTECTIONS AND REMEDIES AGAINST EMPLOYMENT
32 DISCRIMINATION AVAILABLE TO THE EMPLOYEE UNDER:

33 (I) THIS SUBTITLE;

34 (II) THE LAWS GOVERNING THE MARYLAND COMMISSION ON
35 HUMAN RELATIONS; AND

36 (III) THE LAWS GOVERNING THE EQUAL EMPLOYMENT
37 OPPORTUNITY COMMISSION; AND

41

1 (2) THE APPLICABLE TIME LIMITATIONS FOR FILING COMPLAINTS
2 UNDER THOSE LAWS.

3 [3-408.] 5-206.

4 (a) The Secretary shall appoint an Equal Employment Opportunity Coordinator.

5 (b) Under the direction and supervision of the Secretary, the Coordinator shall:

6 (1) administer and enforce the Program;

7 (2) [coordinate the activities of the fair practices officers under this
8 subtitle] INVESTIGATE AND, AS APPROPRIATE, RESOLVE COMPLAINTS THAT
9 INVOLVE ALLEGATIONS OF VIOLATIONS OF THIS SUBTITLE; and

10 (3) perform all other duties related to the Program that the Secretary
11 assigns.

12 [3-409.

13 (a) (1) The head of each principal department or other independent unit shall
14 appoint a fair practices officer for the department or unit.

15 (2) The fair practices officer shall be:

16 (i) an assistant secretary; or

17 (ii) an employee of the department or unit with stature similar to that
18 of an assistant secretary.

19 (b) The fair practices officer of each principal department or other independent
20 unit shall:

21 (1) implement within the department or unit the Program and the
22 affirmative action plan adopted under § 3-410 of this subtitle; and

23 (2) coordinate activities and cooperate with the Coordinator.]

24 [3-410.

25 (a) If any unit receives a complaint of discrimination in violation of § 3-405 of this
26 subtitle, the unit promptly shall advise the Coordinator of the complaint.

27 (b) The head of each principal department or other independent unit shall:

28 (1) in accordance with the regulations and directives of the Secretary,
29 annually prepare an affirmative action plan that includes the development and
30 implementation of policies and programs to ensure that the personnel practices in the
31 department or unit are not discriminatory; and

32 (2) submit to the Secretary the progress reports about the plan that the
33 Secretary requires.

34 (c) The head of each principal department or other independent unit shall:

42

1 (1) for each fiscal year, submit to the Governor by the following January 1
2 an annual report about the activities that the department or unit undertook in that year
3 to implement the Program, including:

4 (i) personnel practices within the department or unit; and

5 (ii) relations with other units of State government; and

6 (2) provide a copy of the annual report to:

7 (i) the Coordinator; and

8 (ii) the Maryland Human Relations Commission.]

9 5-207.

10 (A) (1) THE HEAD OF EACH PRINCIPAL UNIT SHALL APPOINT:

11 (I) A FAIR PRACTICES OFFICER WHO:

12 1. REPORTS DIRECTLY TO THE HEAD OF THE UNIT; AND

13 2. IS AN ASSISTANT SECRETARY OR AN EMPLOYEE OF THE
14 UNIT WITH STATURE SIMILAR TO THAT OF AN ASSISTANT SECRETARY; AND

15 (II) AN APPROPRIATE NUMBER OF EQUAL EMPLOYMENT
16 OPPORTUNITY OFFICERS FOR THE UNIT.

17 (2) IF NECESSARY, THE FAIR PRACTICES OFFICER OF A UNIT MAY ALSO
18 BE THE UNIT'S EQUAL EMPLOYMENT OPPORTUNITY OFFICER.

19 (3) ALL APPOINTMENTS UNDER THIS SUBSECTION SHALL BE MADE IN
20 ACCORDANCE WITH POSITION DESCRIPTIONS APPROVED BY THE SECRETARY.

21 (B) THE DEPARTMENT SHALL PROVIDE TRAINING, ASSISTANCE, AND ADVICE
22 FOR EQUAL EMPLOYMENT OPPORTUNITY OFFICERS AND PROVIDE ASSISTANCE
23 AND ADVICE TO FAIR PRACTICES OFFICERS.

24 (C) EACH FAIR PRACTICES OFFICER SHALL:

25 (1) IMPLEMENT THE PROGRAM WITHIN THE UNIT;

26 (2) INVESTIGATE AND, AS APPROPRIATE, RESOLVE COMPLAINTS FILED
27 UNDER § 5-211 OF THIS SUBTITLE; AND

28 (3) COORDINATE ACTIVITIES OF EQUAL EMPLOYMENT OPPORTUNITY
29 OFFICERS IN THE UNIT.

30 (D) AN EQUAL EMPLOYMENT OPPORTUNITY OFFICER SHALL:

31 (1) MONITOR ALL PERSONNEL ACTIONS ADOPTED BY THE UNIT;

32 (2) IF APPROPRIATE, ATTEST THAT PROCEDURES CONSISTENT WITH
33 THIS ARTICLE, THE GOVERNOR'S CODE ON FAIR PRACTICES, AND OTHER STATE
34 AND FEDERAL EQUAL EMPLOYMENT OPPORTUNITY LAWS WERE FOLLOWED BY
35 THE UNIT IN TAKING A PERSONNEL ACTION; AND

43

1 (3) PERFORM THE DUTIES ASSIGNED BY THE FAIR PRACTICES OFFICER
2 AND ANY OTHER DUTY REQUIRED BY THIS ARTICLE.

3 (E) AN APPOINTING AUTHORITY SHALL DELAY THE EFFECTIVE DATE OF
4 ANY ADVERSE PERSONNEL ACTION THAT DIRECTLY AFFECTS AN EQUAL
5 EMPLOYMENT OPPORTUNITY OFFICER FOR UP TO 45 DAYS, PENDING REVIEW AND
6 RESOLUTION BY THE COORDINATOR.

7 5-208.

8 (A) (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, ALL
9 PERSONNEL ACTIONS CONCERNING AN EMPLOYEE IN THE EXECUTIVE BRANCH OF
10 STATE GOVERNMENT SHALL BE MADE WITHOUT REGARD TO ANY FACTOR IN § 2-302
11 OF THIS ARTICLE.

12 (2) AN EMPLOYEE IN A POSITION IN THE SKILLED SERVICE OR
13 PROFESSIONAL SERVICE OF THE STATE PERSONNEL MANAGEMENT SYSTEM OR A
14 COMPARABLE POSITION IN AN INDEPENDENT PERSONNEL SYSTEM IN THE
15 EXECUTIVE BRANCH IS ENTITLED TO THE PROTECTIONS UNDER SUBSECTION (B) OF
16 THIS SECTION.

17 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, ALL
18 PERSONNEL ACTIONS CONCERNING ANY EMPLOYEE OR APPLICANT FOR
19 EMPLOYMENT IN THE SKILLED SERVICE OR PROFESSIONAL SERVICE OF THE STATE
20 PERSONNEL MANAGEMENT SYSTEM OR COMPARABLE POSITION IN AN
21 INDEPENDENT PERSONNEL SYSTEM IN THE EXECUTIVE BRANCH OF STATE
22 GOVERNMENT SHALL BE MADE WITHOUT REGARD TO:

23 (1) ANY PROHIBITED FACTOR LISTED IN § 2-302 OF THIS ARTICLE;

24 (2) THE EMPLOYEE'S POLITICAL AFFILIATION, BELIEF, OR OPINION; OR

25 (3) ANY OTHER NONMERIT FACTOR.

26 (C) A PERSONNEL ACTION MAY BE TAKEN WITH REGARD TO AGE, SEX, OR
27 DISABILITY TO THE EXTENT THAT AGE, SEX, OR PHYSICAL OR MENTAL
28 QUALIFICATION IS A BONA FIDE OCCUPATIONAL QUALIFICATION.

29 5-209.

30 AN EMPLOYEE IN THE SKILLED SERVICE, PROFESSIONAL SERVICE, OR
31 MANAGEMENT SERVICE OF THE STATE PERSONNEL MANAGEMENT SYSTEM MAY
32 ELECT TO PURSUE AN ALLEGATION OF EMPLOYMENT DISCRIMINATION UNDER:

33 (1) THE COMPLAINT PROCEDURES IN THIS SUBTITLE; OR

34 (2) THE GRIEVANCE PROCEDURES IN TITLE 12 OF THIS ARTICLE.

35 5-210.

36 (A) A COMPLAINANT MAY BE REPRESENTED DURING THE COMPLAINT
37 PROCESS BY ANY PERSON THE COMPLAINANT CHOOSES.

44

1 (B) (1) IF A COMPLAINANT FAILS TO APPEAL A DECISION IN ACCORDANCE
2 WITH THIS SUBTITLE, THE COMPLAINANT IS CONSIDERED TO HAVE ACCEPTED THE
3 DECISION.

4 (2) A FAILURE TO DECIDE A COMPLAINT IN ACCORDANCE WITH THIS
5 SUBTITLE IS CONSIDERED A DENIAL FROM WHICH AN APPEAL MAY BE MADE.

6 (C) EACH PARTY SHALL MAKE EVERY EFFORT TO RESOLVE A COMPLAINT AT
7 THE LOWEST LEVEL POSSIBLE.

8 5-211.

9 (A) AN APPLICANT OR EMPLOYEE SUBJECT TO THIS SUBTITLE MAY FILE WITH
10 THE HEAD OF THE PRINCIPAL UNIT A WRITTEN COMPLAINT THAT ALLEGES A
11 VIOLATION OF § 5-208 OF THIS SUBTITLE.

12 (B) A COMPLAINT UNDER THIS SUBTITLE MUST BE FILED WITHIN 30 DAYS
13 AFTER THE COMPLAINANT FIRST KNEW OF OR REASONABLY SHOULD HAVE KNOWN
14 OF THE ALLEGED VIOLATION THAT IS THE BASIS FOR THE COMPLAINT.

15 5-212.

16 WITHIN 30 DAYS AFTER A COMPLAINT UNDER § 5-211 OF THIS SUBTITLE IS
17 RECEIVED:

18 (1) AN EQUAL EMPLOYMENT OFFICER, UNDER THE DIRECTION OF THE
19 FAIR PRACTICES OFFICER, SHALL INVESTIGATE THE COMPLAINT AND RECOMMEND
20 A PROPOSED DECISION TO THE HEAD OF THE PRINCIPAL UNIT; AND

21 (2) THE HEAD OF THE PRINCIPAL UNIT SHALL ISSUE A WRITTEN
22 DECISION TO THE COMPLAINANT AND MAY GRANT ANY APPROPRIATE RELIEF.

23 5-213.

24 (A) WITHIN 10 DAYS AFTER RECEIVING A DECISION UNDER § 5-212 OF THIS
25 SUBTITLE, A COMPLAINANT MAY APPEAL THE DECISION IN WRITING TO THE
26 SECRETARY.

27 (B) WITHIN 30 DAYS AFTER AN APPEAL IS RECEIVED:

28 (1) THE COORDINATOR:

29 (I) SHALL REVIEW THE COMPLAINT AND THE DECISION BEING
30 APPEALED;

31 (II) MAY CONDUCT ANY NECESSARY INVESTIGATION; AND

32 (III) SHALL RECOMMEND TO THE SECRETARY OR DESIGNEE A
33 FINDING OF WHETHER A VIOLATION OF THIS SUBTITLE HAS OCCURRED; AND

34 (2) THE SECRETARY OR DESIGNEE SHALL:

35 (I) TAKE THE ACTION DESCRIBED IN SUBSECTION (C)(1) OR (C)(2)
36 OF THIS SECTION; AND

45

1 (II) ISSUE TO THE PARTIES A WRITTEN DECISION THAT INCLUDES
2 NOTICE OF ANY REMEDIAL ACTION TAKEN.

3 (C) (1) IF THE SECRETARY OR DESIGNEE DETERMINES THAT A VIOLATION
4 HAS NOT OCCURRED, THE SECRETARY OR DESIGNEE SHALL DISMISS THE
5 COMPLAINT.

6 (2) IF THE SECRETARY OR DESIGNEE DETERMINES THAT A VIOLATION
7 HAS OCCURRED, THE SECRETARY OR DESIGNEE SHALL TAKE APPROPRIATE
8 REMEDIAL ACTION.

9 (D) AS REMEDIAL ACTION FOR A VIOLATION OF § 5-208 OF THIS SUBTITLE,
10 THE SECRETARY OR DESIGNEE MAY:

11 (1) ORDER THE REMOVAL OF DETRIMENTAL INFORMATION FROM THE
12 COMPLAINANT'S STATE PERSONNEL RECORDS;

13 (2) REQUIRE THE HEAD OF THE PRINCIPAL UNIT TO:

14 (I) HIRE, PROMOTE, OR REINSTATE THE COMPLAINANT OR END
15 THE COMPLAINANT'S SUSPENSION FROM EMPLOYMENT;

16 (II) AWARD THE COMPLAINANT BACK PAY UP TO THE DAY OF THE
17 VIOLATION;

18 (III) GRANT THE COMPLAINANT LEAVE OR SENIORITY;

19 (IV) TAKE APPROPRIATE DISCIPLINARY ACTION AGAINST ANY
20 INDIVIDUAL WHO CAUSED THE VIOLATION; OR

21 (V) TAKE ANY OTHER REMEDIAL ACTION THAT THE SECRETARY
22 OR DESIGNEE CONSIDERS APPROPRIATE.

23 (E) THE DECISION OF THE SECRETARY OR DESIGNEE IS FINAL.

24 5-214.

25 INFORMATION OBTAINED AS PART OF AN INVESTIGATION CONDUCTED
26 UNDER THIS SUBTITLE IS CONFIDENTIAL WITHIN THE MEANING OF TITLE 10,
27 SUBTITLE 6 OF THE STATE GOVERNMENT ARTICLE.

28 5-215.

29 AN EMPLOYEE WHO VIOLATES OR FAILS TO COMPLY WITH THIS SUBTITLE IS
30 SUBJECT TO DISCIPLINARY ACTION, INCLUDING TERMINATION OF EMPLOYMENT.

31 Subtitle 3. Maryland Whistleblower Law IN THE EXECUTIVE BRANCH OF STATE
32 GOVERNMENT.

33 [3-301.

34 This subtitle applies only to:

35 (1) classified service and unclassified service employees in the executive
36 branch of State government; and

46

1 (2) applicants for employment in the classified service of the executive
2 branch of State government.]

3 5-301.

4 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS
5 SUBTITLE APPLIES TO ALL EMPLOYEES IN THE EXECUTIVE BRANCH OF STATE
6 GOVERNMENT, INCLUDING A UNIT WITH AN INDEPENDENT PERSONNEL SYSTEM.

7 (B) THIS SUBTITLE DOES NOT APPLY TO TEMPORARY EMPLOYEES IN THE
8 STATE PERSONNEL MANAGEMENT SYSTEM OR TO CONTRACTUAL, EMERGENCY, OR
9 OTHER TEMPORARY EMPLOYEES IN A UNIT WITH AN INDEPENDENT PERSONNEL
10 SYSTEM IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT.

11 [3-302.] 5-302.

12 [(a) The Secretary shall provide all employees subject to this subtitle with written
13 notice of the protections and remedies provided by this subtitle.]

14 [(b)] (A) This subtitle does not preclude action for defamation or invasion of
15 privacy.

16 [(c)] (B) This subtitle does not prohibit a personnel action that would have been
17 taken regardless of a disclosure of information.

18 [(d) The remedies provided by this subtitle are in addition to the grievance
19 procedures provided by Title 10 of this article.]

20 [3-303.] 5-303.

21 The Secretary shall adopt regulations for processing and resolving complaints
22 brought under this subtitle.

23 5-304.

24 THE HEAD OF EACH PRINCIPAL UNIT SHALL PROVIDE THE EMPLOYEES OF THE
25 UNIT WITH WRITTEN NOTICE OF THE PROTECTIONS AND REMEDIES PROVIDED BY
26 THIS SUBTITLE.

27 [3-304.] 5-305.

28 [(a)] Subject to the limitations of [subsection (b) of this section]§ 5-306 OF THIS
29 SUBTITLE, A SUPERVISOR, [an]appointing authority, OR THE HEAD OF A PRINCIPAL
30 UNIT may not take or refuse to take any personnel action as a reprisal against an
31 [applicant or] employee who:

32 (1) discloses information that the [applicant or] employee reasonably
33 believes evidences:

34 (i) an abuse of authority, gross mismanagement, or gross waste of
35 money;

36 (ii) a substantial and specific danger to public health or safety; or

37 (iii) a violation of law; or

47

1 (2) seeks a remedy provided [by] UNDER this subtitle OR ANY OTHER
2 LAW OR POLICY GOVERNING THE EMPLOYEE'S UNIT.

3 [3-304.] 5-306.

4 [(b) Subsection (a) of this section] SECTION 5-305 OF THIS SUBTITLE applies to a
5 disclosure that is specifically prohibited by law only if that disclosure is made exclusively
6 to the Attorney General in the manner allowed in [§ 3-310] § 5-313 of this subtitle.

7 [3-305.

8 (a) An applicant or employee may charge an appointing authority with a violation
9 of § 3-304 of this subtitle by submitting a complaint to the Secretary.

10 (b) A complaint under this subtitle must be submitted within 1 year of the day on
11 which the complainant first knew or should have known of the violation.]

12 [3-306.

13 (a) The Secretary shall:

14 (1) promptly send a copy of the complaint to the appointing authority and to
15 any individual named in the complaint as having violated § 3-304 of this subtitle; and

16 (2) provide the appointing authority with an opportunity to respond in
17 writing to the complaint.

18 (b) The complaint shall be investigated by:

19 (1) the Secretary; or

20 (2) if the Department is charged in a complaint, a designee of the
21 Governor.]

22 [3-307.

23 (a) On completion of the investigation, the Secretary or the Governor's designee
24 shall determine whether a violation of § 3-304 of this subtitle has occurred.

25 (b) If the Secretary or the Governor's designee determines that a violation has not
26 occurred, the Secretary or the Governor's designee shall dismiss the complaint.

27 (c) (1) If the Secretary or the Governor's designee determines that a violation
28 has occurred, the Secretary shall take remedial action consistent with the purposes of this
29 subtitle.

30 (2) The remedial action may include:

31 (i) causing the removal from the complainant's State personnel record
32 of any related detrimental information;

33 (ii) requiring the appointing authority to hire, promote, or reinstate
34 the complainant or end the suspension of the complainant;

35 (iii) requiring the appointing authority to award the complainant back
36 pay to the day of the violation;

48

1 (iv) requiring the appointing authority to grant the complainant leave
2 or seniority;

3 (v) recommending to the appointing authority appropriate disciplinary
4 action against any individual who caused the violation; and

5 (vi) taking disciplinary action against any individual who caused the
6 violation.]

7 [3-308.

8 (a) (1) A hearing shall be held if:

9 (i) the complainant or the appointing authority challenges the
10 determination of the Secretary or the Governor's designee;

11 (ii) the complainant challenges the adequacy of any remedial action
12 the Secretary takes; or

13 (iii) the Secretary or the Governor's designee fails to issue findings
14 within 60 days after the day the complaint is filed and the complainant requests a hearing.

15 (2) The hearing shall be conducted by the Secretary or a designee of the
16 Governor in accordance with Title 10, Subtitle 2 of the State Government Article.

17 (3) The Governor may not designate the individual who investigated the
18 complaint to conduct the hearing under this section.

19 (b) A party to a hearing may be represented by counsel.

20 (c) Testimony at the hearing shall be under oath and recorded.

21 (d) (1) The confidentiality of records and information protected from disclosure
22 under Title 10, Subtitle 6 of the State Government Article shall be maintained in each
23 hearing conducted under this subtitle.

24 (2) A record that is protected from disclosure under Title 10, Subtitle 6 of
25 the State Government Article may be used as evidence in a hearing only if:

26 (i) the material is essential to the conduct of the hearing; and

27 (ii) names and other identifying information are deleted to the extent
28 necessary to maintain confidentiality.

29 (e) As soon as practicable after a hearing, the Secretary or the Governor's
30 designee shall issue a written decision that includes the reasons for the decision.

31 (f) A complainant who prevails at a hearing may be awarded any appropriate
32 relief, including:

33 (1) any remedial action allowed under § 3-307(c)(2) of this subtitle; and

34 (2) costs of litigation and reasonable attorney's fees.

49

1 (g) (1) A complainant or appointing authority may appeal the decision issued
2 under subsection (e) of this section in accordance with §§ 10-222 and 10-223 of the State
3 Government Article.

4 (2) In addition to any other appropriate relief, the court may award costs of
5 litigation and reasonable attorney's fees to a prevailing complainant.]

6 5-307.

7 AN EMPLOYEE WHO SEEKS RELIEF FOR A VIOLATION OF § 5-305 OF THIS
8 SUBTITLE MAY ELECT TO FILE:

9 (1) A COMPLAINT UNDER § 5-309 OF THIS SUBTITLE; OR

10 (2) A GRIEVANCE UNDER TITLE 10 OF THIS ARTICLE.

11 5-308.

12 (A) (1) A COMPLAINANT MAY BE REPRESENTED DURING THE COMPLAINT
13 PROCESS BY ANY PERSON THE COMPLAINANT CHOOSES.

14 (2) EITHER PARTY MAY BE REPRESENTED AT A HEARING BY COUNSEL.

15 (B) (1) IF A COMPLAINANT FAILS TO APPEAL A DECISION IN ACCORDANCE
16 WITH THIS SUBTITLE, THE COMPLAINANT IS CONSIDERED TO HAVE ACCEPTED THE
17 DECISION.

18 (2) A FAILURE TO DECIDE A COMPLAINT IN ACCORDANCE WITH THIS
19 SUBTITLE IS CONSIDERED A DENIAL FROM WHICH AN APPEAL MAY BE MADE.

20 (C) EACH PARTY SHALL MAKE EVERY EFFORT TO RESOLVE A COMPLAINT AT
21 THE LOWEST LEVEL POSSIBLE.

22 5-309.

23 (A) (1) AN EMPLOYEE SUBJECT TO THIS SUBTITLE MAY FILE WITH THE
24 SECRETARY A COMPLAINT THAT ALLEGES A VIOLATION OF § 5-305 OF THIS
25 SUBTITLE.

26 (2) A COMPLAINT UNDER THIS SUBTITLE MUST BE FILED WITHIN 6
27 MONTHS AFTER THE COMPLAINANT FIRST KNEW OF OR REASONABLY SHOULD
28 HAVE KNOWN OF THE VIOLATION.

29 (B) WHEN A COMPLAINT IS RECEIVED, THE SECRETARY OR DESIGNEE
30 PROMPTLY SHALL:

31 (1) SEND A COPY OF THE COMPLAINT TO THE HEAD OF THE PRINCIPAL
32 UNIT NAMED IN THE COMPLAINT; AND

33 (2) ADVISE THE HEAD OF THE PRINCIPAL UNIT TO RESPOND IN
34 WRITING TO THE COMPLAINT WITHIN 20 DAYS AFTER RECEIVING THE COPY.

35 (C) WITHIN 60 DAYS AFTER A COMPLAINT IS RECEIVED:

36 (1) THE COMPLAINT SHALL BE INVESTIGATED TO DETERMINE
37 WHETHER A VIOLATION OF § 5-305 OF THIS SUBTITLE HAS OCCURRED:

50

1 (I) BY THE SECRETARY OR DESIGNEE OF THE SECRETARY; OR

2 (II) IF THE DEPARTMENT IS CHARGED IN THE COMPLAINT, BY A
3 DESIGNEE OF THE GOVERNOR; AND

4 (2) THE SECRETARY OR DESIGNEE OR THE GOVERNOR'S DESIGNEE
5 SHALL:

6 (I) TAKE THE ACTION DESCRIBED IN SUBSECTION (D)(1) OR (2) OF
7 THIS SECTION; AND

8 (II) ISSUE TO THE COMPLAINANT AND HEAD OF THE PRINCIPAL
9 UNIT A WRITTEN DECISION THAT INCLUDES ANY REMEDIAL ACTION TAKEN.

10 (D) (1) IF THE SECRETARY OR DESIGNEE OR THE GOVERNOR'S DESIGNEE
11 DETERMINES THAT A VIOLATION HAS NOT OCCURRED, THE SECRETARY OR
12 GOVERNOR'S DESIGNEE SHALL DISMISS THE COMPLAINT.

13 (2) IF THE SECRETARY OR DESIGNEE OR THE GOVERNOR'S DESIGNEE
14 DETERMINES THAT A VIOLATION HAS OCCURRED, THE SECRETARY OR DESIGNEE
15 SHALL TAKE APPROPRIATE REMEDIAL ACTION.

16 (E) AS A REMEDIAL ACTION FOR A VIOLATION OF § 5-305 OF THIS SUBTITLE,
17 THE SECRETARY OR DESIGNEE MAY:

18 (1) ORDER THE REMOVAL OF ANY RELATED DETRIMENTAL
19 INFORMATION FROM THE COMPLAINANT'S STATE PERSONNEL RECORDS;

20 (2) REQUIRE THE HEAD OF THE PRINCIPAL UNIT TO:

21 (I) HIRE, PROMOTE, OR REINSTATE THE COMPLAINANT OR END
22 THE COMPLAINANT'S SUSPENSION FROM EMPLOYMENT;

23 (II) AWARD THE COMPLAINANT BACK PAY TO THE DAY OF THE
24 VIOLATION;

25 (III) GRANT THE COMPLAINANT LEAVE OR SENIORITY;

26 (IV) TAKE APPROPRIATE DISCIPLINARY ACTION AGAINST ANY
27 INDIVIDUAL WHO CAUSED THE VIOLATION; AND

28 (V) TAKE ANY OTHER REMEDIAL ACTION CONSISTENT WITH THE
29 PURPOSES OF THIS SUBTITLE.

30 5-310.

31 (A) A COMPLAINANT MAY APPEAL TO THE OFFICE OF ADMINISTRATIVE
32 HEARINGS:

33 (1) WITHIN 10 DAYS AFTER RECEIVING A DECISION UNDER § 5-309 OF
34 THIS SUBTITLE; OR

35 (2) WHEN A DECISION IS NOT ISSUED WITHIN 60 DAYS AFTER THE
36 COMPLAINT IS FILED AND THE COMPLAINANT REQUESTS A HEARING.

51

1 (B) (1) THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL CONDUCT A
2 HEARING ON EACH APPEAL IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE
3 STATE GOVERNMENT ARTICLE. THE OFFICE IS BOUND BY ANY REGULATION,
4 DECLARATORY RULING, PRIOR ADJUDICATION, OR OTHER SETTLED, PREEXISTING
5 POLICY, TO THE SAME EXTENT AS THE DEPARTMENT IS OR WOULD HAVE BEEN
6 BOUND IF IT WERE HEARING THE CASE.

7 (2) A RECORD THAT IS PROTECTED FROM DISCLOSURE UNDER TITLE
8 10, SUBTITLE 6 OF THE STATE GOVERNMENT ARTICLE MAY BE USED AS EVIDENCE IN
9 A HEARING ONLY IF:

10 (I) THE MATERIAL IS ESSENTIAL TO THE CONDUCT OF THE
11 HEARING; AND

12 (II) NAMES AND OTHER IDENTIFYING INFORMATION ARE
13 DELETED TO THE EXTENT NECESSARY TO MAINTAIN CONFIDENTIALITY.

14 (3) THE CONFIDENTIALITY OF RECORDS AND INFORMATION
15 PROTECTED FROM DISCLOSURE UNDER TITLE 10, SUBTITLE 6 OF THE STATE
16 GOVERNMENT ARTICLE SHALL BE MAINTAINED IN EACH HEARING.

17 (C) (1) WITHIN 45 DAYS AFTER THE CLOSE OF THE HEARING RECORD, THE
18 OFFICE OF ADMINISTRATIVE HEARINGS SHALL ISSUE TO THE PARTIES A WRITTEN
19 DECISION AND MAY GRANT ANY APPROPRIATE RELIEF UNDER SUBSECTION (D) OF
20 THIS SECTION.

21 (2) THE DECISION OF THE OFFICE OF ADMINISTRATIVE HEARINGS IS
22 FINAL.

23 (D) A COMPLAINANT WHO PREVAILS AT A HEARING MAY BE AWARDED ANY
24 APPROPRIATE RELIEF, INCLUDING:

25 (1) ANY REMEDIAL ACTION ALLOWED UNDER § 5-309(E) OF THIS
26 SUBTITLE; AND

27 (2) COSTS OF LITIGATION AND REASONABLE ATTORNEY'S FEES.

28 (E) A COMPLAINANT OR APPOINTING AUTHORITY MAY APPEAL THE
29 DECISION ISSUED UNDER SUBSECTION (C) OF THIS SECTION IN ACCORDANCE WITH §
30 10-222 OF THE STATE GOVERNMENT ARTICLE.

31 5-311.

32 AFTER REVIEWING A FINAL DECISION UNDER THIS SUBTITLE, THE COURT MAY
33 AWARD COSTS OF LITIGATION AND REASONABLE ATTORNEY'S FEES TO A
34 PREVAILING COMPLAINANT AND ANY OTHER APPROPRIATE RELIEF.

35 [3-309.] 5-312.

36 If, during an investigation under [§ 3-306] § 5-309(C) of this subtitle, the Secretary
37 or Governor's designee finds that reasonable grounds exist to believe that a crime has
38 been committed, the Secretary or Governor's designee shall:

39 (1) promptly refer the matter to an appropriate prosecutor;

52

- 1 (2) make all pertinent evidence available to the prosecutor; and
- 2 (3) send to the individual believed to have committed the crime a notice
- 3 that:
- 4 (i) contains a statement of the allegation;
- 5 (ii) notifies the individual that the matter has been referred to a
- 6 prosecutor;
- 7 (iii) advises the individual of the individual's right to obtain counsel;
- 8 and
- 9 (iv) advises the individual of the individual's right to refuse to respond
- 10 to the allegation if a response might be incriminating.

11 [3-310.] 5-313.

12 For purposes of this subtitle, the Attorney General shall:

- 13 (1) designate an assistant Attorney General to receive from applicants and
- 14 employees any information the disclosure of which is otherwise protected by law;
- 15 (2) investigate each allegation of illegality or impropriety;
- 16 (3) take appropriate legal action; and
- 17 (4) [after the investigation] IF THE INVESTIGATION CONCERNS AN
- 18 ALLEGATION OF ILLEGALITY OR IMPROPRIETY IN THE EXECUTIVE BRANCH, submit
- 19 a confidential report to the Governor that describes the content of the disclosure.

20 [Subtitle 7. Telecommuting Pilot Program.]

21 [3-701.

- 22 (a) In this subtitle the following words have the meanings indicated.
- 23 (b) "Pilot Program" means the Telecommuting Pilot Program.
- 24 (c) "Telecommuting" means using telecommunications technology to work at a
- 25 location other than a traditional office setting.]

26 [3-702.

- 27 (a) The Governor shall establish a statewide Telecommuting Pilot Program.
- 28 (b) The purpose of the Pilot Program is to allow State employees to work at a
- 29 location other than a State office through the use of telecommunications technology.]

30 [3-703.

31 The Secretary shall adopt guidelines and policies to establish and carry out the

32 purpose of the Pilot Program.]

53

1 [3-704.

2 On or before October 1, 1996, the Secretary shall submit a report to the Senate
3 Budget and Taxation Committee and the House Appropriations Committee concerning
4 the effect of the Pilot Program within each of the departments that participates in the
5 Program.]

6 TITLE 6. STATE PERSONNEL MANAGEMENT SYSTEM GENERALLY.

7 Subtitle [2.] 1. State Personnel Management System ESTABLISHED; PURPOSE.

8 [1-201.] 6-101.

9 There is a State Personnel Management System, which is under the authority of the
10 Secretary of Personnel.

11 6-102.

12 THE BASIC PURPOSE OF THE STATE PERSONNEL MANAGEMENT SYSTEM IS TO
13 PROVIDE A SYSTEM OF EMPLOYMENT FOR EMPLOYEES UNDER THE AUTHORITY OF
14 THE SECRETARY. THE STATE PERSONNEL MANAGEMENT SYSTEM:

15 (1) (I) ESTABLISHES CATEGORIES OF SERVICE FOR EMPLOYEES
16 BASED ON THE GENERAL NATURE OF THE EMPLOYEE'S DUTIES OR METHOD OF
17 APPOINTMENT; AND

18 (II) PROVIDES PROCEDURES FOR THE APPOINTMENT, DISCIPLINE,
19 AND TERMINATION OF EMPLOYEES IN EACH SERVICE;

20 (2) (I) GROUPS EMPLOYEES INTO CLASSES OF WORK BASED ON
21 SPECIFIC DUTIES THAT EMPLOYEES PERFORM; AND

22 (II) PROVIDES A SYSTEM OF PAY FOR EMPLOYEES;

23 (3) PROVIDES FOR A SYSTEM OF MERIT EMPLOYMENT IN THE SKILLED
24 SERVICE AND PROFESSIONAL SERVICE, REGARDLESS OF AN APPLICANT'S POLITICAL
25 OR RELIGIOUS OPINIONS OR AFFILIATIONS OR OF ANY STANDARD OTHER THAN
26 BUSINESS EFFICIENCY;

27 (4) PROVIDES A PROCESS FOR THE:

28 (I) PROMOTION AND TRAINING OF EMPLOYEES; AND

29 (II) PROMPT REMOVAL OF EMPLOYEES; AND

30 (5) PROVIDES FOR OTHER ASPECTS OF HUMAN RESOURCES
31 MANAGEMENT.

54

1 SUBTITLE 2. RESPONSIBILITIES OF APPOINTING AUTHORITIES IN STATE
2 PERSONNEL MANAGEMENT SYSTEM.

3 6-201.

4 THIS SUBTITLE ONLY APPLIES TO THE APPOINTING AUTHORITIES OF UNITS
5 WHOSE EMPLOYEES ARE GOVERNED BY THE STATE PERSONNEL MANAGEMENT
6 SYSTEM LAWS.

7 6-202.

8 (A) AN APPOINTING AUTHORITY SHALL TAKE ANY PERSONNEL ACTION
9 GOVERNED BY DIVISION I OF THIS ARTICLE CONSISTENT WITH THE PROVISIONS OF
10 DIVISION I AND THE REGULATIONS AND PROCEDURES ADOPTED UNDER IT.

11 (B) AN APPOINTING AUTHORITY SHALL COOPERATE WITH THE SECRETARY
12 TO ENSURE THAT DIVISION I OF THIS ARTICLE IS PROPERLY ENFORCED.

13 6-203.

14 AN APPOINTING AUTHORITY MAY APPOINT AN EMPLOYEE TO A POSITION IN
15 THE SKILLED SERVICE, PROFESSIONAL SERVICE, MANAGEMENT SERVICE, OR
16 EXECUTIVE SERVICE ONLY IF THE POSITION HAS BEEN ASSIGNED TO A CLASS IN
17 ACCORDANCE WITH TITLE 4, SUBTITLE 2 OF THIS ARTICLE.

18 SUBTITLE 3. POSITIONS IN STATE PERSONNEL MANAGEMENT SYSTEM.

19 [1-202.] 6-301.

20 Except to the extent otherwise provided by law, the following positions in State
21 government are excluded from the State Personnel Management System:

22 (1) [any] A position to which an individual is elected by popular vote; and

23 (2) [any] A position to which an individual's election or appointment is
24 provided for by the Maryland Constitution.

25 [1-203.] 6-302.

26 (a) Except as provided in this subsection or otherwise by law, all positions in the
27 executive branch of State government are in the State Personnel Management System[,
28 including all classified service, unclassified service, full-time, part-time, permanent,
29 temporary extra, emergency, and contractual employees].

30 (b) Except to the extent otherwise provided by law, [any position] ALL
31 POSITIONS in a unit in the executive branch of State government with an independent
32 personnel system [is] ARE excluded from the State Personnel Management System.

33 [1-204.] 6-303.

34 All positions in the judicial branch of State government are excluded from the State
35 Personnel Management System except:

36 (1) the positions in the District Court of Maryland that are listed in [§
37 1-302] § 6-401(B) of this [title] SUBTITLE; or

55

1 (2) as otherwise provided by law.

2 [1-205.] 6-304.

3 All positions in the legislative branch of State government are excluded from the
4 State Personnel Management System.

5 [1-206.] 6-305.

6 The State Personnel Management System includes any other position that is
7 specified by law to be in the [classified service, in the unclassified service,] SKILLED
8 SERVICE, PROFESSIONAL SERVICE, MANAGEMENT SERVICE, EXECUTIVE SERVICE, or
9 otherwise in the State Personnel Management System.

10 [Subtitle 3. Classified Service.] SUBTITLE 4. EMPLOYMENT CATEGORIES IN STATE
11 PERSONNEL MANAGEMENT SYSTEM.

12 [1-301.] 6-401.

13 (A) Except as provided in this title or otherwise by law, all positions in the
14 executive branch of State government that are included in the State Personnel
15 Management System are in the [classified] SKILLED service.

16 [1-302.]

17 (B) Except as otherwise provided by law, the following positions in the judicial
18 branch of State government are in the [classified] SKILLED service:

19 (1) clerical and administrative positions in the District Court of Maryland;
20 and

21 (2) full-time constables in the District Court of Maryland.

22 [1-303.]

23 (c) The [classified] SKILLED service includes any other position that is specified
24 by law to be in the [classified] SKILLED service.

25 [Subtitle 4. Unclassified Service.]

26 [1-402.]

27 As determined by the Secretary, with approval of the Governor, a chief
28 administrator of a unit in the executive branch of State government is in the unclassified
29 service.]

30 [1-403.]

31 As determined by the Secretary, with approval of the Governor, a position in the
32 executive branch of State government that requires medical, engineering, scientific,
33 educational, or expert training and qualifications is in the unclassified service.]

56

1 [1-404.

2 (a) Except as provided in subsection (b) of this section, a position in the Executive
3 Pay Plan is in the unclassified service.

4 (b) If a position held by a classified service employee is transferred to the
5 Executive Pay Plan, the position remains a classified service position until the position
6 becomes vacant.]

7 [1-405.

8 A position assigned to the Executive Mansion is in the unclassified service.]

9 [1-406.

10 The unclassified service includes any other position that is specified by law to be in
11 the unclassified service.]

12 6-402.

13 (A) EXCEPT AS OTHERWISE PROVIDED BY LAW, A POSITION IN THE
14 EXECUTIVE BRANCH OF STATE GOVERNMENT IS IN THE PROFESSIONAL SERVICE IF
15 THE POSITION:

16 (1) REQUIRES KNOWLEDGE OF AN ADVANCED TYPE IN A FIELD OF
17 SCIENCE OR LEARNING CUSTOMARILY ACQUIRED BY A COURSE OF SPECIALIZED
18 INTELLECTUAL INSTRUCTION AND STUDY; AND

19 (2) NORMALLY REQUIRES A PROFESSIONAL LICENSE, ADVANCED
20 DEGREE, OR BOTH.

21 (B) THE PROFESSIONAL SERVICE INCLUDES ANY OTHER POSITION THAT IS
22 DETERMINED BY THE SECRETARY TO BE IN THE PROFESSIONAL SERVICE.

23 6-403.

24 (A) EXCEPT AS OTHERWISE PROVIDED BY LAW, A POSITION IN THE
25 EXECUTIVE BRANCH OF STATE GOVERNMENT IS IN THE MANAGEMENT SERVICE IF
26 THE POSITION:

27 (1) PRIMARILY INVOLVES DIRECT RESPONSIBILITY FOR THE
28 OVERSIGHT AND MANAGEMENT OF PERSONNEL AND FINANCIAL RESOURCES;

29 (2) REQUIRES THE EXERCISE OF DISCRETION AND INDEPENDENT
30 JUDGMENT; AND

31 (3) IS NOT IN THE EXECUTIVE SERVICE.

32 (B) THE MANAGEMENT SERVICE INCLUDES ANY OTHER POSITION THAT IS
33 DETERMINED BY THE SECRETARY TO BE IN THE MANAGEMENT SERVICE.

34 6-404.

35 (A) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE FOLLOWING POSITIONS
36 IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT ARE IN THE EXECUTIVE
37 SERVICE:

57

1 (1) THE CHIEF ADMINISTRATOR OF A PRINCIPAL UNIT OR A
2 COMPARABLE POSITION THAT IS NOT EXCLUDED FROM THE STATE PERSONNEL
3 MANAGEMENT SYSTEM UNDER § 6-301 OF THIS TITLE AS A CONSTITUTIONAL OR
4 ELECTED OFFICE; AND

5 (2) A DEPUTY SECRETARY OR ASSISTANT SECRETARY OF A PRINCIPAL
6 UNIT OR A POSITION THAT THE SECRETARY DETERMINES HAS SIMILAR STATURE.

7 (B) THE EXECUTIVE SERVICE INCLUDES ANY OTHER POSITION THAT IS
8 DETERMINED BY THE SECRETARY TO BE IN THE EXECUTIVE SERVICE.

9 [1-401.] 6-405.

10 Except as otherwise provided by law, [the following positions in the executive
11 branch of State government are in the unclassified service] INDIVIDUALS IN THE
12 FOLLOWING POSITIONS IN THE SKILLED SERVICE, PROFESSIONAL SERVICE,
13 MANAGEMENT SERVICE, OR EXECUTIVE SERVICE ARE CONSIDERED SPECIAL
14 APPOINTMENTS:

15 (1) a position to which an individual is directly appointed by the Governor
16 by an appointment that is not provided for by the Maryland Constitution; [and]

17 (2) a position to which an individual is directly appointed by the Board of
18 Public Works;

19 (3) A POSITION THAT THE SECRETARY DETERMINES PERFORMS WORK
20 INVOLVING CONFIDENTIAL EMPLOYEE-RELATED OR OTHER SENSITIVE MATTERS;

21 (4) A POSITION THAT IS ASSIGNED TO THE GOVERNMENT HOUSE;

22 (5) A POSITION THAT IS ASSIGNED TO THE GOVERNOR'S OFFICE; AND

23 (6) ANY OTHER POSITION THAT IS SPECIFIED BY LAW TO BE A SPECIAL
24 APPOINTMENT.

25 [Subtitle 5. Short-Term Employees.]

26 [1-501.]

27 The following employees are in neither the classified service nor unclassified
28 service:

29 (1) a contractual employee;

30 (2) an emergency employee; or

31 (3) a temporary extra employee.]

32 6-406.

33 (A) (1) A CONTRACTUAL EMPLOYEE IS A TEMPORARY EMPLOYEE WHOSE
34 EMPLOYMENT IS GOVERNED BY TITLE 13 OF THIS ARTICLE.

35 (2) AN EMERGENCY EMPLOYEE IS A TEMPORARY EMPLOYEE WHO IS
36 APPOINTED UNDER § 7-303 OF THIS ARTICLE.

58

1 (B) A TEMPORARY EMPLOYEE:

2 (1) IS NOT INCLUDED IN THE SKILLED SERVICE, PROFESSIONAL
3 SERVICE, MANAGEMENT SERVICE, OR EXECUTIVE SERVICE; AND

4 (2) IS NOT A SPECIAL APPOINTMENT DESCRIBED IN § 6-405 OF THIS
5 SUBTITLE.

6 Title [4.] 7. Employment in the [Classified Service] STATE PERSONNEL
7 MANAGEMENT SYSTEM.

8 Subtitle 1. General Provisions.

9 [4-101.

10 This title applies to:

11 (1) all employees who, under Title 1, Subtitle 3 of this article, are in the
12 classified service; and

13 (2) all applicants for employment in the classified service.]

14 [4-102.

15 The purpose of the classified service is to provide a system of employment that
16 operates to attract the best applicants by:

17 (1) using practical tests to determine the fitness of an applicant, regardless
18 of an applicant's political or religious opinions or affiliations or of any standard other
19 than business efficiency;

20 (2) providing a process for the promotion of employees; and

21 (3) allowing for prompt removal of employees who are incompetent,
22 indolent, inefficient, or otherwise unfit.]

23 7-101.

24 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS TITLE
25 APPLIES TO ALL EMPLOYEES IN THE STATE PERSONNEL MANAGEMENT SYSTEM.

26 (B) THIS SUBTITLE DOES NOT APPLY TO A CONTRACTUAL EMPLOYEE.

27 7-102.

28 (A) (1) EACH EMPLOYEE IN THE SKILLED SERVICE, PROFESSIONAL SERVICE,
29 AND MANAGEMENT SERVICE SHALL BE PROVIDED WITH A WRITTEN POSITION
30 DESCRIPTION WHICH DESCRIBES THE ESSENTIAL DUTIES AND RESPONSIBILITIES
31 THE EMPLOYEE IS EXPECTED TO PERFORM AND THE STANDARDS FOR
32 SATISFACTORY PERFORMANCE ON A FORM APPROVED BY THE SECRETARY.

33 (2) A SUCCESSFUL APPLICANT FOR A POSITION IN THE SKILLED
34 SERVICE, PROFESSIONAL SERVICE, OR MANAGEMENT SERVICE SHALL BE PROVIDED

59

1 WITH A POSITION DESCRIPTION FOR REVIEW BEFORE ACCEPTING APPOINTMENT TO
2 THE POSITION.

3 (B) THE APPOINTING AUTHORITY OR DESIGNEE SHALL APPROVE POSITION
4 DESCRIPTIONS AND REVISED POSITION DESCRIPTIONS FOR THE POSITIONS IN THE
5 UNIT.

6 (C) (1) A SUPERVISOR SHALL:

7 (I) ENSURE THE PREPARATION OF A POSITION DESCRIPTION FOR
8 EACH POSITION OVER WHICH THE SUPERVISOR HAS PRIMARY DIRECT
9 RESPONSIBILITY;

10 (II) MAINTAIN POSITION DESCRIPTIONS FOR THE POSITIONS
11 UNDER THE SUPERVISOR'S JURISDICTION; AND

12 (III) GIVE EACH SUPERVISED EMPLOYEE A COPY OF THE POSITION
13 DESCRIPTION FOR THE EMPLOYEE'S POSITION.

14 (2) THE SUPERVISOR AND EMPLOYEE SHALL REVIEW THE POSITION
15 DESCRIPTION FOR THE EMPLOYEE'S POSITION AND MAKE ANY NECESSARY
16 REVISION:

17 (I) WHENEVER THERE IS A CHANGE IN THE ESSENTIAL
18 FUNCTIONS OF THE POSITION; AND

19 (II) AS PART OF THE EMPLOYEE'S PERFORMANCE APPRAISAL.

20 (3) WHEN THERE IS NO POSITION DESCRIPTION FOR A NEW OR VACANT
21 POSITION, THE PRIMARY DIRECT SUPERVISOR OF THE POSITION SHALL:

22 (I) PREPARE A POSITION DESCRIPTION FOR THE POSITION; AND

23 (II) SUBMIT IT AS PART OF THE SELECTION PLAN TO FILL THE
24 POSITION.

25 (D) A POSITION DESCRIPTION SHALL CONTAIN INFORMATION REQUIRED BY
26 THE SECRETARY.

27 (E) (1) THE DUTIES AND RESPONSIBILITIES ASSIGNED TO A POSITION
28 SHALL BE CONSISTENT WITH THE DUTIES AND RESPONSIBILITIES FOR THE
29 POSITION'S ASSIGNED CLASS.

30 (2) AN EMPLOYEE MAY GRIEVE THE ASSIGNMENT OF DUTIES AND
31 RESPONSIBILITIES ONLY IF THOSE ASSIGNED DUTIES AND RESPONSIBILITIES
32 CLEARLY ARE APPLICABLE TO A DIFFERENT CLASS.

60

1 Subtitle 2. [Eligibility for Appointment; Examinations.] APPOINTMENT INSKILLED
2 SERVICE AND PROFESSIONAL SERVICE.

3 [4-201.

4 (a) To establish lists of individuals who are eligible for appointment to positions
5 in the classified service, the Secretary may use any method that the Secretary considers
6 appropriate to:

7 (1) investigate the experience and training of applicants; and

8 (2) test, as appropriate, the manual skill, physical fitness, or technical
9 knowledge of applicants.

10 (b) The Secretary shall set minimum scores for all examinations given under this
11 subtitle.]

12 [4-202.

13 (a) Except as provided in this section or otherwise by law, all applicants for
14 positions in the classified service shall take competitive examinations.

15 (b) (1) The Secretary may provide by regulation for the exemption of any of the
16 following from competitive examinations:

17 (i) classes to be filled by unskilled manual laborers; and

18 (ii) classes for which the Secretary determines that competitive
19 examinations cannot validly evaluate the abilities and knowledge required for successful
20 performance.

21 (2) For any position or class exempted under paragraph (1) of this
22 subsection, the Secretary may provide for a system of registration that the Secretary
23 considers best for that position or class.

24 (c) The Secretary may authorize qualification examinations for positions that
25 require administrative, professional, or technical skill, if the Secretary:

26 (1) gives notice of a competitive examination for the position as required by
27 § 4-207 of this subtitle; and

28 (2) does not receive any applications from qualified applicants.]

29 [4-203.

30 (a) Except as otherwise provided in this section, every examination shall be open
31 and free of charge to all applicants who qualify for appointment to a position in the class
32 for which the examination is given.

33 (b) Except as otherwise provided by law, if the Secretary determines that the
34 limitation is required for the performance of the duties of a class, the Secretary, by
35 regulation, may set for that class a limitation as to:

36 (1) age;

37 (2) habits;

61

- 1 (3) health;
- 2 (4) moral character;
- 3 (5) physical condition; or
- 4 (6) other qualifications.

5 (c) (1) An applicant who has been convicted of a crime may nonetheless take an
6 examination under this subtitle if:

- 7 (i) the applicant otherwise is qualified to take the examination; and
- 8 (ii) the applicant:
 - 9 1. has served the sentence imposed;
 - 10 2. has received a conditional commutation of sentence;
 - 11 3. has received a conditional or full pardon; or
 - 12 4. has been paroled or placed on probation.

13 (2) If an applicant who has been convicted of a crime is certified by the
14 Secretary as eligible for appointment to a position, the appointing authority may consider
15 the conviction in deciding whether to appoint the applicant to the position.]

16 [4-204.

17 (a) Subject to the requirements of subsection (b) of this section, the Secretary or
18 the head of a principal department or other independent unit for a unique class may
19 disqualify and refuse to examine an applicant if the applicant:

- 20 (1) does not meet the requirements for taking the examination or for
21 appointment to the position;
- 22 (2) has a mental or physical disability that precludes performance of the
23 duties of the position;
- 24 (3) intentionally falsified information in the application; or
- 25 (4) has been deceptive or fraudulent in any phase of the examination or
26 appointment process.

27 (b) The Secretary may not disqualify an applicant under this section unless the
28 Secretary or the designee of the Secretary:

- 29 (1) gives the applicant written notice of the reason for the proposed
30 disqualification;
- 31 (2) allows the applicant an opportunity to submit a written response; and
- 32 (3) allows the applicant an opportunity to meet with the Secretary or the
33 Secretary's designee.]

62

1 [4-205.

2 (a) On all examinations to determine the qualifications of an applicant entitled to
3 preferential credits under this section, the Secretary shall allow the applicant credit for all
4 valuable experience, including civic, service, and organizational activities, regardless of
5 whether the applicant was compensated for that experience.

6 (b) (1) In this subsection, "eligible veteran" means a veteran of any branch of
7 the armed forces of the United States:

8 (i) who has received an honorable discharge or a certificate of
9 satisfactory completion of military service; and

10 (ii) who:

11 1. on or before January 30, 1955, served at least 90 days in
12 military service;

13 2. on or before January 30, 1955, was released from military
14 service before serving 90 days because of a service-connected disability;

15 3. on or after January 31, 1955, served at least 181 days of
16 continuous active duty in military service; or

17 4. on or after January 31, 1955, was released from military
18 service before serving 181 days of continuous active duty because of a service-connected
19 disability.

20 (2) The Secretary shall allow an applicant the following credits on all
21 examinations:

22 (i) five points if the applicant is an eligible veteran who does not have
23 a service-connected disability;

24 (ii) ten points if the applicant is an eligible veteran who has a
25 service-connected disability; and

26 (iii) ten points if the applicant is:

27 1. the spouse of an eligible veteran and the eligible veteran
28 does not qualify for employment in the classified service because of a service-connected
29 disability; or

30 2. an unmarried surviving spouse of a deceased eligible veteran.

31 (3) A credit under paragraph (2) of this subsection may be allowed only for
32 purposes of determining the standing of an applicant on a list of eligible candidates for
33 which the applicant otherwise is qualified.

34 (4) An eligible veteran who has been placed on a list of eligible candidates
35 shall be certified for appointment, reemployment, or reinstatement, ahead of an applicant
36 who is not an eligible veteran and has the same or a lower score on the examination.

63

1 (5) Except for a position as a fire fighter or police officer, the age limitation
2 for a position shall be waived for an eligible veteran who is less than 55 years old.

3 (6) If an eligible veteran is convicted of a crime after being discharged from
4 or completing military service:

5 (i) the veteran is ineligible for any credit or preference under this
6 subsection; and

7 (ii) if the veteran is certified by the Secretary as eligible for
8 appointment to a position, the appointing authority may consider the conviction in
9 deciding whether to appoint the veteran to the position.

10 (c) (1) The Secretary may provide by regulation that, on all examinations, credit
11 for experience and demonstrated efficiency be given to a classified service employee or
12 class of classified service employees competing for promotion to a higher class.

13 (2) A credit allowed an applicant under this subsection may not exceed 20%
14 of the applicant's total score.

15 (d) (1) (i) In this subsection the following terms have the meanings indicated.

16 (ii) "Host county" means any county in which a qualified prison facility
17 is located.

18 (iii) "Adjacent county" means any county adjacent to a host county.

19 (iv) "Qualified prison facility" means any new State correctional
20 institution of 750 beds or more constructed for the Division of Correction of the
21 Department of Public Safety and Correctional Services on or after January 1, 1985.

22 (2) In a competitive examination for an initial appointment to any position
23 in a qualified prison facility, the Secretary shall allow five preference points to each
24 resident of the host county or an adjacent county if, in the most recent 12-month period
25 for which data is available as reported by the Maryland Department of Business and
26 Economic Development, that county had an average unemployment rate that is more
27 than one and one-half times the State unemployment rate as a whole.]

28 [4-206.

29 (a) (1) The Secretary is responsible for the conduct of all examinations.

30 (2) The Secretary:

31 (i) may designate any person, even if not a State employee, as a
32 special examiner; and

33 (ii) may substitute another person as special examiner for a previously
34 designated special examiner.

35 (3) A special examiner shall:

36 (i) conduct the examinations that the Secretary directs; and

37 (ii) report the results of the examinations to the Secretary.

64

1 (4) The Secretary may:

2 (i) review the reports of special examiners; and

3 (ii) order a new examination if the Secretary believes that a new
4 examination is appropriate.

5 (b) Each examination shall be:

6 (1) of a character to test fairly and determine the relative abilities and
7 fitness of applicants to perform the duties of the class to which they seek to be appointed;

8 (2) except as provided in § 4-202 of this subtitle, competitive; and

9 (3) in one or any combination of the following forms:

10 (i) written;

11 (ii) oral; or

12 (iii) a demonstration of skill.

13 (c) The Secretary shall schedule a competitive examination for a class:

14 (1) whenever three or more vacancies are expected in that class during the
15 following year and there are fewer than five names left on the list of eligible candidates
16 for that class;

17 (2) when required by § 4-209 of this subtitle; and

18 (3) at any other time the Secretary considers an examination necessary to
19 maintain lists of eligible candidates.

20 (d) When necessary, the Secretary shall conduct examinations in different parts of
21 this State.

22 (e) (1) Except as provided in paragraph (2) of this subsection, the Secretary
23 shall provide suitable help during any examination to an individual who, because of
24 blindness or other physical disability, is unable to read the examination or otherwise
25 unable to comply with the mechanical or procedural requisites of the examination.

26 (2) The Secretary may not provide help with any requisite that:

27 (i) involves the substance of the examination; or

28 (ii) the applicant must meet to perform the duties of the position for
29 which the examination is being given.]

30 [4-207.

31 (a) For each open competitive examination that is scheduled, the Secretary shall
32 provide a notice of the examination that includes:

33 (1) the closing date for receiving applications; and

34 (2) the rate of pay for each position listed.

65

1 (b) (1) Periodically, but at least once every month, the Secretary shall place an
2 advertisement in a newspaper of general circulation in each county inviting persons
3 interested in State employment to submit their name, address, telephonenumber, and
4 areas of their employment interests to the Department of Personnel. The advertisement
5 shall also include information on specific positions which are available.

6 (2) Not later than 2 weeks before the day on which the examination is to be
7 held, the Secretary shall send notice of the examination to any of the following, as
8 appropriate:

9 (i) each person who expressed an interest in a position for which the
10 examination is being given or for a related position;

11 (ii) the clerk of each circuit court, who immediately shall post the
12 notice in the county courthouse;

13 (iii) Enoch Pratt's library depository system for circulation to public
14 libraries in each county;

15 (iv) the Department of Economic and Employment Development's
16 Division of Employment and Training for inclusion in the job service data base;

17 (v) organizations representing Maryland employees;

18 (vi) multiservice centers administered by the Department of General
19 Services;

20 (vii) public high school counseling and placement offices;

21 (viii) Maryland college placement offices;

22 (ix) community interest groups that have made written requests;

23 (x) State agency chief personnel officers for distribution among their
24 units; and

25 (xi) any other entity the Secretary considers necessary or appropriate.]

26 [4-208.

27 On request, the Secretary shall allow the applicant's examination papers and
28 examination results to be inspected at the Department:

29 (1) by the applicant or the applicant's designee; or

30 (2) if the applicant has a legal disability, by the applicant's parent or legal
31 representative.]

32 [4-209.

33 (a) (1) For each class, the Secretary or the head of a principal department or
34 other independent unit for a unique class shall issue a list of eligible candidates that
35 names, in the following sequence:

66

1 (i) in the order of seniority established under § 9-506 of this article,
2 individuals who, under § 9-504 of this article, were laid off in good standing from
3 positions in the class; and

4 (ii) in the order of merit, candidates who have been examined and
5 determined by the Secretary to be qualified for positions in the class.

6 (2) A new list of eligible candidates for a class shall be combined with an
7 existing list of eligible candidates in accordance with regulations adopted by the
8 Secretary.

9 (b) (1) If the Secretary or the head of a principal department or other
10 independent unit for a unique class receives a request to fill a vacancy and a list of eligible
11 candidates does not exist, the Secretary or the head of the principal department or other
12 independent unit for a unique class shall:

13 (i) immediately schedule an examination; and

14 (ii) issue the list of eligible candidates that results from the
15 examination within 60 days after the examination.

16 (2) If a list of eligible candidates does not result from an examination
17 conducted under this subsection, the Secretary or the head of the principal department or
18 other independent unit for a unique class shall conduct additional examinations until a
19 list results.

20 (3) The Secretary or the head of a principal department or other
21 independent unit for a unique class shall establish a list of eligible candidates within 6
22 months after the Secretary or the head of the principal department or other independent
23 unit for a unique class receives the request to fill the vacancy.

24 (c) (1) Each list of eligible candidates is effective for 1 year from the date on
25 which the list is first issued.

26 (2) Before the effective period for a list expires, the Secretary or the head of
27 the principal department or other independent unit for a unique class may extend the
28 effective period.

29 (3) Each list of eligible candidates that is combined with another list of
30 eligible candidates under subsection (a)(2) of this section is treated as a separate list for
31 purposes of determining its effective period.

32 (d) Except to correct clerical errors in computing scores, the relative standings of
33 the applicants on a list of eligible candidates may not be changed after the list is issued.

34 (e) (1) After notice and a public hearing, the Secretary or the head of the
35 principal department or other independent unit for a unique class may cancel all or part
36 of a list of eligible candidates for illegality or fraud.

37 (2) Notice under this subsection shall be given in the manner specified in §
38 4-207 of this subtitle.]

67

1 [4-210.

2 (a) Subject to the requirements of subsection (b) of this section, the Secretary or
3 the head of a principal department or other independent unit for a unique class may
4 disqualify and remove from a list of eligible candidates any candidate who:

5 (1) willfully misrepresents a material matter in an application for an
6 examination;

7 (2) fails to satisfy any minimum standard for education, experience, or
8 physical qualification specified for the class;

9 (3) if a physical examination is required, fails to meet a reasonable standard
10 of physical condition as determined by an approved physician; or

11 (4) has indicated availability for employment statewide or in a specific
12 geographic area of this State and fails to respond to a notice for an interview for a
13 position, or declines an offer of appointment, in any area of indicated availability.

14 (b) The Secretary or the head of a principal department or other independent
15 unit for a unique class may not disqualify a candidate under this section unless the
16 Secretary or the Secretary's designee or the head of the principal department or other
17 independent unit for a unique class:

18 (1) gives the candidate written notice of the reason for the proposed
19 disqualification;

20 (2) allows the candidate an opportunity to submit a written response; and

21 (3) if the candidate submits a written response, considers the response in
22 deciding whether to disqualify the candidate.]

23 7-201.

24 (A) THIS SUBTITLE DOES NOT APPLY TO A SPECIAL APPOINTMENT EMPLOYEE
25 IN THE SKILLED SERVICE OR PROFESSIONAL SERVICE.

26 (B) EACH UNIT SHALL FILL VACANT SKILLED SERVICE AND PROFESSIONAL
27 SERVICE POSITIONS IN ACCORDANCE WITH A POSITION SELECTION PLAN.

28 (C) TO ENSURE COMPLIANCE WITH STATE AND FEDERAL EMPLOYMENT
29 LAWS AND TO ENSURE CONSISTENCY IN RECRUITMENT AND HIRING PRACTICES IN
30 THE STATE PERSONNEL MANAGEMENT SYSTEM, THE DEPARTMENT SHALL :

31 (1) ASSIST UNITS IN DEVELOPING APPLICATION FORMS, POSITION
32 SELECTION PLANS, SELECTION TESTS, AND ANNOUNCEMENT FORMS; AND

33 (2) PERIODICALLY REVIEW AND AUDIT RECRUITMENT AND HIRING
34 PRACTICES OF ALL APPOINTING AUTHORITIES.

35 (D) ON REQUEST OF A UNIT THAT IS NOT ABLE TO CONDUCT ALL OR PART OF
36 ITS OWN RECRUITMENT OR SELECTION TESTING FOR A POSITION BECAUSE IT LACKS
37 THE APPROPRIATE RESOURCES, THE DEPARTMENT, CONSISTENT WITH ITS

68

1 RESOURCES, SHALL ASSIST THE UNIT IN CONDUCTING THE REQUESTED
2 RECRUITMENT AND SELECTION TESTING.

3 7-202.

4 (A) WHEN A SKILLED SERVICE OR PROFESSIONAL SERVICE POSITION IS TO BE
5 FILLED, THE UNIT SHALL COMPLETE A POSITION SELECTION PLAN FOR THE
6 POSITION.

7 (B) A POSITION SELECTION PLAN SHALL CONTAIN THE INFORMATION ABOUT
8 THE POSITION THAT THE SECRETARY REQUIRES, INCLUDING:

9 (1) A POSITION DESCRIPTION DESCRIBED IN § 7-102 OF THIS SUBTITLE;

10 (2) THE MINIMUM QUALIFICATIONS FOR THE CLASS OF THE POSITION
11 AND ANY SELECTIVE QUALIFICATIONS REQUIRED FOR APPOINTMENT TO THE
12 POSITION;

13 (3) ANY LIMITATIONS ON SELECTION FOR THE POSITION, INCLUDING
14 THOSE THAT LIMIT CONSIDERATION TO:

15 (I) CURRENT STATE OR UNIT EMPLOYEES;

16 (II) PROMOTIONAL CANDIDATES; OR

17 (III) CANDIDATES INDICATING A WILLINGNESS TO WORK IN A
18 LOCATION; AND

19 (4) IF APPLICANTS FOR THE POSITION ARE TO BE RECRUITED, THE:

20 (I) LOCATION FOR SUBMITTING APPLICATIONS;

21 (II) MANNER FOR POSTING THE POSITION ANNOUNCEMENT IN THE
22 UNIT;

23 (III) METHOD AND LENGTH OF TIME FOR ADVERTISING THE
24 POSITION;

25 (IV) CLOSING DATE TO RECEIVE APPLICATIONS FOR THE POSITION;

26 (V) A PLAN OF DEVELOPMENT OF ANY SELECTION TEST TO BE
27 ADMINISTERED TO QUALIFIED APPLICANTS; AND

28 (VI) DURATION OF THE LIST OF ELIGIBLES THAT RESULTS FROM
29 THE RECRUITMENT.

30 (C) THE APPOINTING AUTHORITY SHALL:

31 (1) APPROVE OR DISAPPROVE EACH POSITION SELECTION PLAN;

32 (2) AUTHORIZE FUNDING FOR APPROVED PLANS; AND

33 (3) SEND A COPY OF AN APPROVED SELECTION PLAN TO THE EQUAL
34 EMPLOYMENT OPPORTUNITY OFFICER OF THE UNIT.

69

1 7-203.

2 AN APPOINTING AUTHORITY MAY SELECT CANDIDATES FOR A POSITION:

3 (1) FROM AN EXISTING LIST OF ELIGIBLE CANDIDATES;

4 (2) IF NO EXISTING LIST OF ELIGIBLE CANDIDATES EXISTS OR IF THE
5 APPOINTING AUTHORITY DECIDES TO RECRUIT FOR THE POSITION, BY
6 RECRUITMENT; OR

7 (3) FROM A SPECIAL LIST OF ELIGIBLE CANDIDATES WHOM THE
8 DIVISION OF VOCATIONAL REHABILITATION OF THE DEPARTMENT OF EDUCATION
9 CERTIFIES AS BEING PHYSICALLY CAPABLE AND ADEQUATELY TRAINED TO
10 QUALIFY FOR THE POSITION.

11 7-204.

12 (A) TO RECRUIT CANDIDATES FOR A POSITION, AN APPOINTING AUTHORITY
13 SHALL PREPARE A JOB ANNOUNCEMENT FOR THE POSITION AND CONDUCT
14 RECRUITMENT IN ACCORDANCE WITH THE POSITION SELECTION PLAN.

15 (B) A JOB ANNOUNCEMENT SHALL CONTAIN:

16 (1) A SUMMARY OF THE POSITION DESCRIPTION;

17 (2) THE MINIMUM QUALIFICATIONS FOR THE CLASS AND ANY
18 SELECTIVE QUALIFICATIONS NECESSARY FOR CONSIDERATION;

19 (3) THE TYPE OF SELECTION TEST THAT WILL BE ADMINISTERED TO
20 THOSE MEETING THE POSITION'S MINIMUM QUALIFICATIONS;

21 (4) THE LOCATION AND DEADLINE FOR SUBMITTING APPLICATIONS;
22 AND

23 (5) THE DURATION OF THE LIST OF ELIGIBLES DERIVED FROM THE
24 ANNOUNCEMENT.

25 (C) AT LEAST 2 WEEKS BEFORE THE DEADLINE FOR SUBMITTING
26 APPLICATIONS FOR A VACANT POSITION UNDER THIS SUBTITLE, THE APPOINTING
27 AUTHORITY SHALL:

28 (1) SEND A COPY OF THE SELECTION PLAN AND JOB ANNOUNCEMENT
29 TO THE SECRETARY TO ASSURE PUBLIC ACCESS;

30 (2) IF CURRENT EMPLOYEES IN THE UNIT MAY BE ELIGIBLE FOR THE
31 POSITION:

32 (I) POST THE JOB ANNOUNCEMENT FOR THE POSITION IN AT
33 LEAST ONE CENTRALIZED LOCATION IN THAT UNIT THAT IS ACCESSIBLE TO ALL
34 EMPLOYEES; AND

35 (II) USE ANY OTHER METHOD REASONABLY CALCULATED TO
36 GIVE ELIGIBLE EMPLOYEES NOTICE OF THE VACANCY; AND

37 (3) ADVERTISE THE POSITION VACANCY BY:

70

1 (I) MAKE AVAILABLE A JOB ANNOUNCEMENT TO ALL
2 APPROPRIATE STATE AGENCIES, BASED ON SELECTION LIMITATIONS; AND

3 (II) USING ANY OTHER METHOD THAT IS REASONABLY
4 CALCULATED TO ENSURE A SUFFICIENT POOL OF APPLICANTS, INCLUDING PRINTED
5 ADVERTISEMENTS IN NEWSPAPERS AND JOURNALS, PAPER AND ELECTRONIC
6 BULLETIN BOARD POSTINGS, AND SPECIAL NOTICES.

7 7-205.

8 (A) AFTER THE CLOSE OF A POSITION ANNOUNCEMENT, THE APPOINTING
9 AUTHORITY SHALL:

10 (1) REVIEW THE APPLICATIONS RECEIVED TO DETERMINE THE
11 APPLICANTS WHO MEET THE MINIMUM QUALIFICATIONS FOR THE POSITION;

12 (2) PREPARE A REGISTER OF QUALIFIED APPLICANTS IN RANDOM
13 ORDER;

14 (3) SEND TO UNQUALIFIED APPLICANTS A NOTICE THAT THEY HAVE
15 FAILED TO MEET THE MINIMUM QUALIFICATIONS FOR THE POSITION; AND

16 (4) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IF A
17 COMPETITIVE EXAMINATION THAT REQUIRES ATTENDANCE AT A TEST SITE IS
18 REQUIRED FOR THE POSITION, SEND A NOTICE OF THE EXAMINATION TO
19 QUALIFIED APPLICANTS ON THE REGISTER AT LEAST 10 DAYS BEFORE THE TEST
20 ADMINISTRATION DATE.

21 (B) IF LESS THAN TEN BUT MORE THAN TWO APPLICANTS MEET THE
22 MINIMUM REQUIREMENTS FOR A POSITION, THE APPOINTING AUTHORITY MAY:

23 (1) MAKE A SELECTION FROM THE REGISTER WITHOUT THE NEED FOR
24 FURTHER SELECTION TESTING; OR

25 (2) READVERTISE THE POSITION VACANCY.

26 7-206.

27 (A) (1) (I) AN APPOINTING AUTHORITY MAY USE ANY APPROPRIATE
28 SELECTION PROCESS TO RATE QUALIFIED APPLICANTS.

29 (II) A UNIT MUST BE ABLE TO ESTABLISH THE JOB RELATEDNESS,
30 RELIABILITY, AND VALIDITY OF THE SELECTION TESTS THAT IT USES.

31 (B) (1) A SELECTION TEST MUST BE:

32 (I) FREE OF CHARGE; AND

33 (II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
34 OPEN TO ALL QUALIFIED APPLICANTS.

35 (2) AN APPOINTING AUTHORITY:

71

1 (I) MAY DISQUALIFY AND REFUSE TO EXAMINE AN OTHERWISE
2 QUALIFIED APPLICANT WHO INTENTIONALLY FALSIFIES INFORMATION IN THE
3 APPLICATION; AND

4 (II) SHALL GIVE THE APPLICANT A WRITTEN NOTICE OF THE
5 REASON FOR THE PROPOSED DISQUALIFICATION.

6 (3) AN APPLICANT WHO IS DISQUALIFIED UNDER THIS SUBSECTION
7 MAY SUBMIT A WRITTEN RESPONSE TO THE NOTICE.

8 7-207.

9 (A) A CREDIT UNDER THIS SECTION SHALL BE APPLIED TO AN APPLICANT'S
10 SCORE ON ANY SELECTION TEST ADMINISTERED TO ESTABLISH PLACEMENT ON A
11 LIST OF ELIGIBLE CANDIDATES FOR WHICH THE APPLICANT OTHERWISE IS
12 QUALIFIED AND HAS AT LEAST THE MINIMUM PASSING SCORE ON A SELECTION
13 TEST.

14 (B) FOR A CURRENT STATE EMPLOYEE, AN APPOINTING AUTHORITY SHALL
15 APPLY A CREDIT ON A SELECTION TEST, OF ONE-QUARTER POINT FOR EACH YEAR
16 OF SERVICE IN STATE GOVERNMENT, UP TO A MAXIMUM OF FIVE POINTS FOR 20
17 YEARS OF STATE SERVICE.

18 (C) (1) IN THIS SUBSECTION, "ELIGIBLE VETERAN" MEANS A VETERAN OF
19 ANY BRANCH OF THE ARMED FORCES OF THE UNITED STATES WHO HAS RECEIVED
20 AN HONORABLE DISCHARGE OR A CERTIFICATE OF SATISFACTORY COMPLETION OF
21 MILITARY SERVICE.

22 (2) AN APPOINTING AUTHORITY SHALL APPLY A CREDIT OF FIVE
23 POINTS ON ANY SELECTION TEST FOR AN ELIGIBLE VETERAN OR THE SURVIVING
24 SPOUSE OF A DECEASED ELIGIBLE VETERAN.

25 (3) AN APPOINTING AUTHORITY SHALL APPLY A CREDIT OF TEN POINTS
26 ON A SELECTION TEST FOR:

27 (I) AN ELIGIBLE VETERAN WHO HAS A SERVICE-CONNECTED
28 DISABILITY;

29 (II) THE SPOUSE OF AN ELIGIBLE VETERAN WHO HAS A
30 SERVICE-CONNECTED DISABILITY; OR

31 (III) THE SURVIVING SPOUSE OF A DECEASED ELIGIBLE VETERAN
32 WITH A SERVICE-CONNECTED DISABILITY.

33 (4) THE FOLLOWING APPLICANTS ARE INELIGIBLE FOR A CREDIT
34 UNDER THIS SUBSECTION:

35 (I) A CURRENT STATE EMPLOYEE; AND

36 (II) AN ELIGIBLE VETERAN WHO IS CONVICTED OF A CRIME AFTER
37 BEING DISCHARGED FROM OR COMPLETING MILITARY SERVICE.

72

1 7-208.

2 (A) THE APPOINTING AUTHORITY SHALL:

3 (1) BASED ON TECHNICALLY APPROPRIATE STANDARDS, RANK THE
4 CANDIDATES WITHIN THE FOLLOWING CATEGORIES:

5 (I) BEST QUALIFIED;

6 (II) BETTER QUALIFIED;

7 (III) QUALIFIED;

8 (IV) UNSATISFACTORY; OR

9 (V) CERTIFIED BY VOCATIONAL REHABILITATION; AND

10 (2) PLACE THE CANDIDATES ON A LIST OF ELIGIBLE CANDIDATES BY
11 CATEGORY IN RANDOM ORDER WITHIN THE CATEGORY.

12 (B) ON REQUEST, AN APPOINTING AUTHORITY SHALL NOTIFY ELIGIBLE
13 CANDIDATES OF THEIR RELATIVE STANDING ON THE LIST OF ELIGIBLE
14 CANDIDATES.

15 (C) (1) THE APPOINTING AUTHORITY SHALL FILE THE LIST OF ELIGIBLE
16 CANDIDATES WITH THE DEPARTMENT FOR USE BY OTHER AGENCIES REQUESTING
17 IT; OR

18 (2) IF THE DEPARTMENT DEVELOPS A LIST OF ELIGIBLE CANDIDATES,
19 THE DEPARTMENT SHALL SEND THE LIST TO THE APPROPRIATE APPOINTING
20 AUTHORITIES, ON REQUEST, IN ACCORDANCE WITH REGULATIONS ADOPTED BY
21 THE SECRETARY.

22 7-209.

23 (A) AN APPOINTING AUTHORITY SHALL MAKE AN APPOINTMENT FROM
24 AMONG THE CANDIDATES IN A RATING CATEGORY ON A LIST OF ELIGIBLE
25 CANDIDATES AS FOLLOWS:

26 (1) IF THERE ARE AT LEAST FIVE CANDIDATES RATED BEST
27 QUALIFIED, FROM THAT RATING CATEGORY;

28 (2) IF THERE ARE FEWER THAN FIVE CANDIDATES RATED BEST
29 QUALIFIED, FROM THE CANDIDATES IN THE BEST QUALIFIED AND BETTER
30 QUALIFIED CATEGORIES; AND

31 (3) IF THERE ARE FEWER THAN FIVE CANDIDATES RATED BEST
32 QUALIFIED AND BETTER QUALIFIED, FROM CANDIDATES IN BEST QUALIFIED,
33 BETTER QUALIFIED, AND QUALIFIED CATEGORIES.

34 (B) (1) IN MAKING A SELECTION, THE APPOINTING AUTHORITY MAY
35 INTERVIEW ANY OF THE CANDIDATES IN THE RATING CATEGORY FROM WHICH THE
36 SELECTION WILL BE MADE.

73

1 (2) IF INTERVIEWS ARE CONDUCTED, THE APPOINTING AUTHORITY
2 MUST INTERVIEW AT LEAST THREE CANDIDATES.

3 (C) THE APPOINTING AUTHORITY MUST APPROVE THE APPOINTMENT OF
4 THE SUCCESSFUL CANDIDATE AND CERTIFY TO THE SECRETARY THAT THE HIRING
5 PROCESS WAS CONDUCTED IN ACCORDANCE WITH THE SELECTION PLAN AND THIS
6 SUBTITLE.

7 7-210.

8 (1) ANY APPLICANT UNDER THIS TITLE WHO IS NOT SELECTED FOR A
9 POSITION MAY APPEAL THE DECISION.

10 (2) AN APPEAL:

11 (I) MAY BE MADE ONLY ON THE GROUNDS THAT THE DECISION WAS
12 UNCONSTITUTIONAL OR ILLEGAL; AND

13 (II) MAY ONLY BE MADE TO THE APPOINTING AUTHORITY.

14 (3) THE DECISION OF THE APPOINTING AUTHORITY IS FINAL.

15 [Subtitle 3. Certification and Appointment.]

16 [4-301.

17 (a) Except as otherwise provided in this Division I, to fill a vacancy in any position
18 in the classified service, the appointing authority shall request the Secretary to certify a
19 list of eligible candidates for the position.

20 (b) (1) The appointing authority may request from the Secretary a selective
21 certification of eligible candidates for a specific geographic area or with specific
22 job-related qualifications.

23 (2) A request for selective certification shall:

24 (i) be in writing;

25 (ii) state the reasons for the request, including any duties of the
26 position that require specific job-related qualifications; and

27 (iii) certify that the request is not based on any factor prohibited by §
28 3-405 of this article.

29 (3) The Secretary may approve or disapprove any request for selective
30 certification.]

31 [4-302.

32 (a) Except as otherwise provided in this section, if a request is made under §
33 4-301 of this subtitle, the Secretary shall certify to the appointing authority:

34 (1) the five candidates with the highest standing on the list of eligible
35 candidates for the class in which the position is included; or

74

1 (2) if the list of eligible candidates contains fewer than five candidates, all of
2 the candidates on the list.

3 (b) If the Secretary has approved a request for selective certification, the names
4 certified under subsection (a) of this section may be limited to candidates who:

5 (1) meet the job-related qualifications specified in the request; or

6 (2) have indicated availability for the geographic area specified in the
7 request.

8 (c) (1) If a class is unique to one principal department or other independent
9 unit, the department or unit shall recruit, examine, or certify a list of eligible candidates
10 to be considered for appointment to positions in the unique class in accordance with the
11 provisions of this article.

12 (2) Notwithstanding the provisions of paragraph (1) of this subsection, the
13 head of the principal department or other independent unit for a unique class may
14 request that the Department recruit, examine, or certify a list of eligible candidates for
15 any of its unique classes.

16 (3) (i) The individual in the principal department or other independent
17 unit for a unique class certifying the list shall certify that the list was prepared in
18 accordance with the provisions of this article.

19 (ii) If a list prepared by a principal department or other independent
20 unit for a unique class is found not in accordance with the provisions of this title:

21 1. the individual who certified the list shall be subject to
22 appropriate disciplinary action; and

23 2. the principal department or other independent unit for a
24 unique class shall be subject to revocation of the authority to recruit, examine, and certify
25 candidates for appointment.

26 (4) The Department may audit the principal department's or other
27 independent unit's recruitment, examination, and certification procedures for compliance
28 with the provisions of this article.

29 (d) (1) Without holding an examination, the Secretary or the head of a principal
30 department or other independent unit for a unique class may prepare a special list of
31 eligible candidates whom the Division of Vocational Rehabilitation of the Department of
32 Education certifies as being physically capable and adequately trained to qualify for a
33 specified position in the classified service.

34 (2) An appointing authority may use the special list of eligible candidates to
35 fill the specified position.

36 (3) The Secretary or the head of a principal department or other
37 independent unit for a unique class may set a maximum number of candidates that may
38 be appointed from the special list of eligible candidates.

75

1 (e) Each list of eligible candidates that is certified by the Secretary or the head of
2 a principal department or other independent unit for a unique class shall contain the
3 addresses of the candidates named in the list.]

4 [4-303.

5 (a) Subject to the requirements of subsection (b) of this section, the Secretary
6 may disqualify and refuse to certify an applicant who has been examined under Subtitle 2
7 of this title if the applicant:

8 (1) did not meet the requirements for taking the examination;

9 (2) does not meet the requirements for appointment to the position;

10 (3) has a mental or physical disability that precludes performance of the
11 duties of the position;

12 (4) intentionally falsified information in the application; or

13 (5) has been deceptive or fraudulent in any phase of the examination or
14 appointment process.

15 (b) The Secretary may not disqualify an applicant under this section unless the
16 Secretary or the designee of the Secretary:

17 (1) gives the applicant written notice of the reason for the proposed
18 disqualification;

19 (2) allows the applicant an opportunity to submit a written response; and

20 (3) allows the applicant an opportunity to meet with the Secretary or the
21 Secretary's designee.]

22 [4-304.

23 Except as otherwise provided in this Division I, an appointing authority may fill a
24 position in the classified service only by appointing a candidate certified under § 4-302 of
25 this subtitle.]

26 [4-305.

27 (a) To the extent that the Secretary considers that it is in the best interests of the
28 classified service, an appointing authority shall fill a vacant position in the classified
29 service by promoting an employee from a class with a lower maximum compensation.

30 (b) An appointing authority may not appoint a nonresident of this State from a
31 certified list of eligible candidates if there is a resident of this State who has the same or
32 a higher standing on that list.

33 (c) (1) Unless there is substantial reason to pass over a candidate who is
34 entitled to a military service preference under § 4-205 of this title, an appointing
35 authority may not appoint a candidate who is not entitled to the preference if there is a
36 candidate who is entitled to the preference and has the same or a higher standing on the
37 certified list of eligible candidates.

76

1 (2) An appointing authority who proposes to pass over a candidate entitled
2 to the preference shall submit to the Secretary a statement that gives a substantial reason
3 for passing over that candidate.

4 (3) The statement:

5 (i) shall become part of the record of the candidate; and

6 (ii) shall be made available on request to the candidate or the designee
7 of the candidate.

8 (4) The Secretary shall determine the sufficiency of the reasons given in the
9 statement.

10 (5) The Secretary may require the appointing authority to submit more
11 detailed information to support the decision to pass over the candidate.

12 (6) If the Secretary finds that the appointing authority lacks substantial
13 reason for passing over the candidate, the Secretary shall:

14 (i) order the appointing authority to appoint the candidate; and

15 (ii) send a copy of the order to the candidate or the designee of the
16 candidate.]

17 [4-306.

18 (a) If a request to fill a vacancy is received and a list of eligible candidates does
19 not exist, the Secretary or the head of a principal department or other independent unit
20 for a unique class:

21 (1) shall establish a list of eligible candidates in accordance with this title;
22 and

23 (2) if necessary to prevent the stoppage of public business pending
24 establishment of the list, may certify, with or without a competitive examination, a
25 qualified individual as eligible for temporary appointment as a temporary pending
26 employee.

27 (b) A temporary pending employee appointed under this section serves at the
28 pleasure of the employee's appointing authority and is not entitled to any of the rights,
29 including the right to notice and hearing, provided other employees under § 4-504, §
30 4-604, § 6-107, Title 9, or Title 10 of this article.

31 (c) A temporary pending employee appointed under this section may continue in
32 the position only until a list of eligible candidates is established and the position is filled
33 on a permanent basis.]

34 [4-307.

35 (a) Notwithstanding any other provision of this title, the Secretary may investigate
36 the background and qualifications of an individual even after the individual is appointed
37 to a position in the classified service.

77

1 (b) (1) Subject to paragraph (2) of this subsection, if fraudulent or irregular
2 information is discovered after the appointment of an individual, the Secretary may
3 revoke certification for the individual, withdraw the appointment of the individual, and
4 direct that the employment of the individual be terminated.

5 (2) If the individual has completed an original period of probation, the
6 employment of the individual may be terminated under this section only if the appointing
7 authority files charges for removal of the employee and otherwise complies with the
8 requirements of Title 9, Subtitle 2 of this article.

9 (c) Except for fraud, the Secretary may not take action against an individual
10 under this section after 3 years from the day on which the individual was appointed.]

11 SUBTITLE 3. OTHER APPOINTMENTS.

12 7-301.

13 (A) IN ACCORDANCE WITH GUIDELINES ISSUED BY THE SECRETARY, AN
14 APPOINTING AUTHORITY SHALL APPOINT INDIVIDUALS TO MANAGEMENT SERVICE
15 AS SPECIAL APPOINTMENTS ON AN EMERGENCY BASIS.

16 (B) THESE GUIDELINES SHALL PROVIDE THAT AN EMPLOYEE SO APPOINTED
17 UNDER A SPECIAL APPOINTMENT IN THE SKILLED SERVICE OR SPECIAL SERVICE
18 SERVES AT THE PLEASURE OF THE APPOINTING AUTHORITY.

19 (C) AN EMERGENCY APPOINTMENT UNDER THIS SECTION MAY NOT EXCEED
20 6 MONTHS AND MAY NOT BE RENEWED.

21 Subtitle 4. Probation.

22 [4-401.

23 An employee shall be placed on probation when the employee is first appointed to
24 the classified service.]

25 [4-402.

26 (a) Except as provided in subsection (b) of this section, an employee may be
27 placed on probation, in accordance with the regulations of the Secretary, when the
28 employee is promoted or reinstated in the classified service.

29 (b) An additional period of probation may not be required for an employee who is
30 promoted as a result of a reclassification of a position that does not involve a substantial
31 change in duties or responsibilities.]

32 [4-403.

33 (a) (1) Subject to the limitations of this section, the Secretary by regulation
34 shall establish periods of probation for all positions in the classified service.

35 (2) The grades of the pay scale specified in this section are those in effect on
36 January 1, 1993.

78

1 (b) (1) Except as provided in paragraph (2) of this subsection, the period of
2 probation for a position in grades 1 through 6 of the pay scale may not exceed 3 months.

3 (2) Subject to the approval of the Secretary, the appointing authority may
4 extend an employee's period of probation under paragraph (1) of this subsection for one
5 additional period that when added to the original period does not exceed 6 months.

6 (c) (1) Except as provided in paragraph (2) of this subsection, the period of
7 probation for a position in grades 7 through 12 of the pay scale may not exceed 6 months.

8 (2) Subject to the approval of the Secretary, the appointing authority may
9 extend an employee's period of probation under paragraph (1) of this subsection for one
10 additional period that when added to the original period does not exceed 12 months.

11 (d) The period of probation for a position in grade 13 of the pay scale or higher
12 may not exceed 1 year.

13 (e) Except as otherwise provided by law, the period of probation for law
14 enforcement employees of the Department of State Police and the Department of
15 Natural Resources shall be as provided in this section.]

16 [4-404.

17 (a) An employee who is on probation may be separated from employment at any
18 time, as provided in Title 9, Subtitle 1 of this article.

19 (b) An employee who has completed probation may be removed only for cause, as
20 provided in Title 9, Subtitle 2 of this article.]

21 7-401.

22 THIS SUBTITLE APPLIES TO ALL EMPLOYEES IN THE:

23 (1) SKILLED SERVICE;

24 (2) PROFESSIONAL SERVICE;

25 (3) MANAGEMENT SERVICE; AND

26 (4) EXECUTIVE SERVICE.

27 7-402.

28 (A) EACH EMPLOYEE SUBJECT TO THIS SUBTITLE IS REQUIRED TO COMPLETE
29 A 6-MONTH PROBATIONARY PERIOD AS THE FINAL STEP IN:

30 (1) THE EMPLOYEE'S INITIAL APPOINTMENT TO A POSITION IN THE
31 STATE PERSONNEL MANAGEMENT SYSTEM; AND

32 (2) IF APPLICABLE, THE EMPLOYEE'S APPOINTMENT TO A POSITION IN
33 THE SKILLED OR PROFESSIONAL SERVICE FOLLOWING A COMPETITIVE PROMOTION.

34 (B) TO SUCCESSFULLY COMPLETE A PROBATIONARY PERIOD, AN EMPLOYEE
35 IS REQUIRED TO DEMONSTRATE PROFICIENCY IN THE ASSIGNED DUTIES AND
36 RESPONSIBILITIES OF THE POSITION TO WHICH THE EMPLOYEE IS APPOINTED.

79

1 7-403.

2 AT THE SOLE DISCRETION OF THE EMPLOYEE'S APPOINTING AUTHORITY, AN
3 EMPLOYEE'S PROBATIONARY PERIOD MAY BE EXTENDED UP TO AN ADDITIONAL 6
4 MONTHS IF:

5 (1) THE APPOINTING AUTHORITY DECIDES THAT ADDITIONAL TIME IS
6 NECESSARY TO ALLOW THE EMPLOYEE TO DEMONSTRATE PROFICIENCY IN THE
7 PERFORMANCE OF THE EMPLOYEE'S ASSIGNED DUTIES AND RESPONSIBILITIES;

8 (2) IN THE APPOINTING AUTHORITY'S JUDGMENT, THE PERIOD OF THE
9 EMPLOYEE'S ABSENCE ON APPROVED LEAVE IS SUFFICIENT TO PREVENT THE
10 APPOINTING AUTHORITY FROM MAKING A REASONABLE DECISION REGARDING
11 THE PROFICIENCY OF THE EMPLOYEE'S PERFORMANCE; OR

12 (3) THE EMPLOYEE REQUESTS TO EXTEND THE PROBATIONARY
13 PERIOD.

14 7-404.

15 (A) EACH APPOINTING AUTHORITY AND, WHERE APPLICABLE, SUPERVISOR
16 HAS THE RESPONSIBILITY OF PROPERLY EXPLAINING THE DUTIES AND
17 RESPONSIBILITIES OF AN EMPLOYEE'S POSITION TO THE EMPLOYEE, PROVIDING
18 THE EMPLOYEE WITH A WRITTEN POSITION DESCRIPTION AND OTHERWISE
19 ORIENTATING THE EMPLOYEE TO THE OPERATIONS OF THE EMPLOYEE'S UNIT.

20 (B) PERIODICALLY DURING THE PROBATIONARY PERIOD, AN APPOINTING
21 AUTHORITY OR AN EMPLOYEE'S SUPERVISOR, AS APPROPRIATE, SHALL CONFER
22 WITH THE EMPLOYEE ABOUT THE EMPLOYEE'S PERFORMANCE AND
23 IMPROVEMENTS IN THAT PERFORMANCE THAT ARE NECESSARY TO
24 SATISFACTORILY COMPLETE PROBATION.

25 (C) (1) AN APPOINTING AUTHORITY SHALL ENSURE THAT AT THE END OF
26 AN EMPLOYEE'S FIRST 90 DAYS OF PROBATION THE EMPLOYEE RECEIVES A
27 WRITTEN EVALUATION OF THE EMPLOYEE'S PERFORMANCE AND ANY
28 RECOMMENDATIONS FOR IMPROVEMENT.

29 (2) IF THE APPOINTING AUTHORITY EXTENDS AN EMPLOYEE'S
30 PROBATIONARY PERIOD, THE APPOINTING AUTHORITY SHALL ENSURE THAT THE
31 EMPLOYEE RECEIVES ADDITIONAL WRITTEN EVALUATIONS:

32 (I) AT THE END OF THE EMPLOYEE'S INITIAL PROBATIONARY
33 PERIOD; AND

34 (II) AT THE MID-POINT OF THE EXTENSION PERIOD.

35 7-405.

36 AN APPOINTING AUTHORITY MAY TAKE DISCIPLINARY ACTION AGAINST OR
37 TERMINATE THE EMPLOYMENT OF A PROBATIONARY EMPLOYEE IN ACCORDANCE
38 WITH TITLE 11 OF THIS ARTICLE.

80

1 Subtitle 5. Employee Performance APPRAISALS.

2 [4-501.

3 The Secretary shall adopt regulations that set standards of performance for
4 classified service employees.]

5 [4-502.

6 The Secretary shall:

7 (1) investigate the efficiency of all classified service employees; and

8 (2) periodically provide the appropriate appointing authorities with the
9 findings of the investigations and recommendations for increased efficiency and
10 economy.]

11 [4-503.

12 (a) As a basis for determining employee efficiency, each appointing authority
13 shall keep records on the performance, productivity, and conduct of each classified
14 service employee of the appointing authority.

15 (b) The Secretary may determine the form and scope of these records.]

16 [4-504.

17 (a) (1) Each appointing authority shall submit a report to the Secretary on each
18 classified service employee who, because of alleged unsatisfactory work or conduct,
19 voluntarily or involuntarily is separated from State employment or transferred to another
20 unit.

21 (2) The Secretary shall determine the form of the report.

22 (b) The appointing authority shall:

23 (1) provide a copy of the report to the employee; and

24 (2) notify the employee of the employee's right to respond to the report.

25 (c) (1) An employee may submit to the Secretary a written response to a report
26 under this section.

27 (2) An employee who has satisfactorily completed probation may request a
28 hearing before the Secretary. The Secretary shall conduct the hearing under the same
29 procedures as those established for removal of classified service employees from State
30 employment.

31 (d) Subject to subsection (e) of this section, the Secretary shall determine the part
32 of the report, if any, that will remain in the employee's official employment record for
33 determining the suitability of the employee for future employment.

34 (e) (1) A report made under this section may not become part of the employee's
35 official employment record until after the employee has had an opportunity to respond to
36 the report.

81

1 (2) If a report is made a part of an employee's official employment record,
2 the employee's written response, if any, shall also be made a part of the employee's
3 record.]

4 7-501.

5 (A) THE PERFORMANCE OF EACH EMPLOYEE IN THE SKILLED SERVICE,
6 PROFESSIONAL SERVICE, AND MANAGEMENT SERVICE SHALL BE EVALUATED IN
7 ACCORDANCE WITH THIS SUBTITLE.

8 (B) THE APPOINTING AUTHORITY SHALL ENSURE THAT EACH OF THE UNIT'S
9 EMPLOYEES WHO IS SUBJECT TO THIS SUBTITLE HAS PERFORMANCE EVALUATIONS
10 IN ACCORDANCE WITH THIS SUBTITLE AND PROCEDURES ESTABLISHED BY THE
11 SECRETARY.

12 (C) (1) EACH SUPERVISOR OF AN EMPLOYEE SUBJECT TO THIS SUBTITLE
13 SHALL ATTEND MANDATORY TRAINING BY THE DEPARTMENT ON THE METHODS
14 AND PROCEDURES REQUIRED IN THE PERFORMANCE APPRAISAL PROCESS.

15 (2) TIMELINESS AND ADHERENCE TO ESTABLISHED METHODS AND
16 PROCEDURES IN CONDUCTING PERFORMANCE APPRAISALS, PERFORMANCE
17 APPRAISAL TRAINING, AND EMPLOYEE RESPONSE ON SUPERVISOR RATING
18 SURVEYS MADE IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE
19 SECRETARY WILL BE FACTORS IN EVALUATING A SUPERVISOR'S PERFORMANCE.

20 7-502.

21 (A) AN EMPLOYEE SUBJECT TO THIS SUBTITLE SHALL RECEIVE THE
22 FOLLOWING WRITTEN PERFORMANCE APPRAISALS AT 6 MONTH INTERVALS BASED
23 ON THE EMPLOYEE'S ENTRY-ON-DUTY DATE:

24 (1) A MID-YEAR PERFORMANCE APPRAISAL; AND

25 (2) AN END-OF-YEAR PERFORMANCE APPRAISAL WITH AN OVERALL
26 PERFORMANCE RATING.

27 (B) AN EMPLOYEE'S PERFORMANCE MAY BE RATED ON A PERFORMANCE
28 APPRAISAL AS FOLLOWS:

29 (1) OUTSTANDING;

30 (2) EXCEEDS STANDARDS;

31 (3) MEETS STANDARDS;

32 (4) NEEDS IMPROVEMENT; OR

33 (5) UNSATISFACTORY.

34 7-503.

35 (A) (1) A SUPERVISOR SHALL PREPARE A PRELIMINARY PERFORMANCE
36 APPRAISAL FOR EACH EMPLOYEE FOR WHICH THE SUPERVISOR HAS PRIMARY
37 DIRECT RESPONSIBILITY.

82

1 (2) AN APPOINTING AUTHORITY MAY REVIEW A PRELIMINARY
2 APPRAISAL BEFORE THE SUPERVISOR PRESENTS IT TO THE EMPLOYEE.

3 (B) EACH EMPLOYEE SHALL PARTICIPATE IN THE EMPLOYEE'S
4 PERFORMANCE APPRAISAL BY PREPARING A SELF-ASSESSMENT THAT:

5 (1) EVALUATES THE EMPLOYEE'S PERFORMANCE DURING A RATING
6 PERIOD;

7 (2) INDICATES THE EMPLOYEE'S SUGGESTIONS FOR WAYS THAT THE
8 EMPLOYEE AND THE EMPLOYEE'S SUPERVISOR CAN ENHANCE THE EMPLOYEE'S
9 CONTRIBUTION TO THE UNIT'S MISSION, GOALS, AND OBJECTIVES; AND

10 (3) SUGGESTS TRAINING OR OTHER METHODS TO PROMOTE THE
11 DEVELOPMENT OF THE EMPLOYEE'S CAREER OBJECTIVES IN THE UNIT.

12 (C) AN EMPLOYEE AND THE EMPLOYEE'S SUPERVISOR SHALL REVIEW AND
13 DISCUSS THE EMPLOYEE'S SELF-ASSESSMENT AND THE SUPERVISOR'S ASSESSMENT
14 TO:

15 (1) PROMOTE AGREEMENT AND UNDERSTANDING ABOUT THE
16 ASSESSMENTS OF THE EMPLOYEE AND SUPERVISOR AND TO AID THE SUPERVISOR
17 IN DETERMINING THE FINAL RATINGS FOR THE PERFORMANCE APPRAISAL; AND

18 (2) (I) DEVELOP APPROPRIATE MODIFICATIONS TO THE EMPLOYEE'S
19 POSITION DESCRIPTION, IF NEEDED;

20 (II) ESTABLISH SPECIFIC WRITTEN TASKS AND INDICATORS, BASED
21 ON MEASURABLE AND OBJECTIVE STANDARDS THAT CAN BE EVALUATED ON
22 OUTCOME, THAT THE EMPLOYEE NEEDS TO ACCOMPLISH DURING THE NEXT
23 RATING PERIOD IN ORDER TO MEET THE OVERALL OBJECTIVES OF THE POSITION;
24 AND

25 (III) IDENTIFY ANY AREA IN WHICH TRAINING IS NEEDED FOR THE
26 NEXT RATING PERIOD, BASED ON THE EMPLOYEE'S STRENGTHS AND WEAKNESSES.

27 (D) (1) AN APPOINTING AUTHORITY SHALL APPROVE A PERFORMANCE
28 APPRAISAL BEFORE IT IS FINAL.

29 (2) THE FINAL PERFORMANCE APPRAISAL SHALL INCLUDE:

30 (I) THE EMPLOYEE'S FINAL PERFORMANCE RATINGS;

31 (II) THE SPECIFIC TASKS THE EMPLOYEE IS TO ACHIEVE DURING
32 THE NEXT RATING PERIOD;

33 (III) A LIST OF MODIFICATIONS TO THE EMPLOYEE'S POSITION
34 DESCRIPTION, IF ANY; AND

35 (IV) ANY RECOMMENDATIONS FOR TRAINING TO ENHANCE THE
36 EMPLOYEE'S SKILLS.

37 (3) THE SUPERVISOR SHALL:

83

1 (I) GIVE THE EMPLOYEE A COPY OF THE FINAL PERFORMANCE
2 APPRAISAL;

3 (II) RETAIN A COPY; AND

4 (III) PLACE A COPY IN THE EMPLOYEE'S PERSONNEL RECORDS.

5 7-504.

6 AN APPOINTING AUTHORITY MAY PROVIDE FOR INTERIM CONFERENCES
7 BETWEEN AN EMPLOYEE AND THE EMPLOYEE'S SUPERVISOR TO EVALUATE THE
8 EMPLOYEE'S PROGRESS IN MEETING OBJECTIVES ESTABLISHED DURING THE
9 PREVIOUS MANDATORY PERFORMANCE APPRAISAL.

10 Subtitle [7.] 6. Employees of State-Acquired Entities AND MISCELLANEOUS
11 PROVISIONS.

12 7-601.

13 [4-701.] (A) If this State acquires a public or private entity to operate it for a
14 public purpose, this State may retain, as a State employee, any individual who is an officer
15 or employee of that entity at the time of the acquisition.

16 [4-702.] [(a)] (B) (1) An employee who is retained under [§ 4-701 of] this
17 [subtitle] SECTION:

18 [(1)] (I) shall be employed in a position that corresponds or is similar to the
19 position held at the time of the acquisition; and

20 [(2)] (II) keeps seniority.

21 [(b)] A position held by a retained employee is in the unclassified service pending
22 classification of that position as required by § 4-703 of this subtitle.

23 [(c)] (2) Beginning as of the date of the acquisition, each retained employee shall
24 be on probation for the period required by Subtitle 4 of this title.

25 [4-703.] (C) Within 1 year after an acquisition, the Department shall classify each
26 position in the acquired entity.

27 [4-704.] (D) After positions in the acquired entity are classified, each retained
28 employee:

29 (1) may continue without an examination to hold the position in which the
30 employee is then employed; and

31 (2) has all the rights of the class to which that position is allocated.

32 [4-705.] (E) If a new position is created in an acquired entity or an established
33 position in an acquired entity becomes vacant, the position shall be filled in accordance
34 with this title.

84

1 7-602.

2 (A) (1) AN APPOINTING AUTHORITY MAY REASSIGN ANY EMPLOYEE
3 WITHIN THE APPOINTING AUTHORITY'S JURISDICTION TO ANOTHER POSITION OF
4 EQUAL GRADE FOR WHICH THE EMPLOYEE MEETS THE MINIMUM QUALIFICATIONS
5 WITHIN THE APPOINTING AUTHORITY'S JURISDICTION.

6 (2) EXCEPT AS OTHERWISE REQUIRED BY LAW, NO EMPLOYEE MAY BE
7 REASSIGNED FROM ONE PRINCIPAL UNIT TO ANOTHER WITHOUT THE EMPLOYEE'S
8 CONSENT, UNLESS THE SECRETARY CERTIFIES THAT THE REASSIGNMENT IS IN THE
9 BEST INTERESTS OF THE STATE.

10 (B) (1) (I) AN EMPLOYEE MAY APPLY FOR A TRANSFER TO ANY VACANT
11 POSITION OF THE SAME GRADE IN ANY UNIT OF THE EXECUTIVE BRANCH FOR
12 WHICH THE EMPLOYEE MEETS THE MINIMUM QUALIFICATIONS.

13 (II) AN EMPLOYEE WHO APPLIES FOR A TRANSFER TO A POSITION
14 WILL BE CONSIDERED FOR THE POSITION ALONG WITH OTHER ELIGIBLE
15 APPLICANTS.

16 (2) (I) UNLESS EXIGENT CIRCUMSTANCES EXIST, THE APPOINTING
17 AUTHORITY SHALL GIVE AN EMPLOYEE NOTICE OF A PROPOSED REASSIGNMENT AT
18 LEAST 2 WEEKS BEFORE THE EFFECTIVE DATE OF THE TRANSFER.

19 (II) AN EMPLOYEE MAY AGREE TO WAIVE THE REQUIRED NOTICE
20 PERIOD.

21 (C) (1) AN EMPLOYEE MAY APPLY FOR A VOLUNTARY DEMOTION TO ANY
22 VACANT POSITION OF A LOWER GRADE IN ANY UNIT IN THE EXECUTIVE BRANCH
23 FOR WHICH THE EMPLOYEE MEETS THE MINIMUM QUALIFICATIONS.

24 (2) AN EMPLOYEE WHO APPLIES FOR A VOLUNTARY DEMOTION TO A
25 POSITION WILL BE CONSIDERED FOR THE POSITION ALONG WITH OTHER ELIGIBLE
26 APPLICANTS.

27 [Subtitle 6. Transfers.]

28 [4-601.

29 (a) The Secretary shall adopt regulations to provide for the transfers of classified
30 service employees to:

31 (1) different positions;

32 (2) positions in a different class; and

33 (3) positions in different units.

34 (b) A transfer shall comply with this subtitle and the regulations adopted under
35 it.]

85

1 [4-602.

2 A classified service employee may not be transferred from one principal department
3 or other independent unit to a different principal department or other independent unit
4 without the consent of the respective appointing authorities.]

5 [4-603.

6 (a) If a classified service employee is transferred to a different class that has a
7 higher maximum rate of pay, the transfer is a promotion.

8 (b) A transfer that is a promotion is considered a new appointment and may be
9 made only in accordance with Subtitles 2 and 3 of this title.]

10 [4-604.

11 (a) If a classified service employee is transferred involuntarily to a different class
12 that has a lower maximum rate of pay, the transfer is a demotion.

13 (b) (1) A transfer that is a demotion under this section may be made only for
14 cause, on written charges submitted to the Secretary.

15 (2) The employee may appeal the proposed demotion to the Secretary
16 within the time and in the manner required by regulation.

17 (3) If the employee fails to appeal within the time and in the manner
18 required, the demotion is final.

19 (c) (1) If the employee appeals the demotion, the Secretary shall hold a hearing
20 to determine whether there is cause for the demotion.

21 (2) The hearing shall be held within 90 days after the written charges for the
22 demotion are submitted to the Secretary.

23 (d) (1) The Secretary shall make findings and issue a written decision on an
24 appeal within 45 days after the later of:

25 (i) the conclusion of the hearing; and

26 (ii) the day when all briefs or memoranda have been submitted.

27 (2) The Secretary shall provide a copy of the findings and decision to each
28 party.

29 (3) The decision of the Secretary is final.

30 (e) The appointing authority immediately shall enforce a final decision issued
31 under this section.]

86

1 Title [6.] 8. Compensation OF EMPLOYEES SUBJECT TO SALARY AUTHORITY OF
2 SECRETARY OF PERSONNEL.

3 Subtitle 1. Pay Plans.

4 [6-101.] 8-101.

5 (a) There is a Standard Pay Plan and an Executive Pay Plan for this State, as
6 established by the Secretary with the approval of the Governor and as amended or
7 adjusted in accordance with this subtitle.

8 (b) The purpose of the pay plans is to provide employees in positions that involve
9 comparable effort, knowledge, responsibilities, skills, and working conditions with
10 comparable pay according to the relative value of services to be performed.

11 (c) A pay plan is effective for a fiscal year only to the extent that sufficient money
12 is available in the State budget for that purpose.

13 [6-102.] 8-102.

14 (a) (1) Except as provided in paragraph (2) of this subsection, the pay plans
15 established under this subtitle shall include:

16 (i) [all classified service and unclassified service positions in the
17 executive branch of State government] ALL POSITIONS IN THE STATE PERSONNEL
18 MANAGEMENT SYSTEM; AND

19 [(ii) all classified service positions in the District Court of Maryland;
20 and]

21 [(iii)] (II) all other positions for which the Secretary has authority to
22 administer pay.

23 (2) The pay plans established under this subtitle do not apply to:

24 (i) any position for which the pay is provided for by the Maryland
25 Constitution;

26 (ii) any position for which the pay is based, by law, on judicial pay; and

27 (iii) except as provided in subsection (b) of this section, a position for
28 which the pay is set by a unit with independent pay-setting authority.

29 (b) (1) The Executive Pay Plan shall include each permanent position in the
30 executive branch of State government, including each permanent position in the
31 Governor's office, that is not included in the Standard Pay Plan and has a pay rate equal
32 to or exceeding the lowest pay rate in the Executive Pay Plan.

33 (2) In addition, and notwithstanding any other law, the Governor may
34 include in the Executive Pay Plan any executive management position in a unit in the
35 executive branch with independent pay-setting authority, except a position in the
36 University of Maryland System, Morgan State University, or St. Mary's College.

87

1 [(3) Notwithstanding any other law, if a classified service position included in
2 the Executive Pay Plan becomes vacant, that position then becomes an unclassified
3 service position.]

4 [6-103.] 8-103.

5 (a) Subject to the approval of the Governor, the Secretary shall adopt regulations
6 to carry out this subtitle.

7 (b) Subject to § 2-1312 of the State Government Article, the Secretary shall
8 submit to the Department of Fiscal Services, on or before September 1 of each year, a list
9 of the position, pay grade and step, and pay rate of each employee who was included in
10 the Executive Pay Plan as of the preceding June 30.

11 [6-104.] 8-104.

12 (a) (1) Pay rates in the Standard Pay Plan may be set by:

13 (i) a series of pay grades and steps within each grade;

14 (ii) fixed rates; or

15 (iii) minimum and maximum amounts.

16 (2) Pay rates in the Executive Pay Plan may be set by:

17 (i) a series of executive pay grades and steps within each grade; or

18 (ii) fixed rates.

19 (b) In setting or amending a pay rate, the Secretary shall consider:

20 (1) the prevailing pay rates for comparable services in private and public
21 employment;

22 (2) experience;

23 (3) living costs;

24 (4) benefits; and

25 (5) the financial condition and policies of this State.

26 (c) (1) A pay rate in either pay plan is subject to any limitations included in the
27 State budget.

28 (2) The starting pay rate for an employee whose position is in the Executive
29 Pay Plan may not exceed the pay rate set for the second step of the grade specified for the
30 position, unless:

31 (i) exceptional circumstances exist; and

32 (ii) the Board of Public Works approves the higher starting pay.

33 (3) The pay rate for a physician in the Department of Health and Mental
34 Hygiene whose position is in the Executive Pay Plan shall be set in accordance with the
35 physician-administrator pay schedule.

88

1 [6-105.] 8-105.

2 (a) This section applies only to the Standard Pay Plan.

3 (b) With the approval of the Governor, the Secretary may amend the Standard
4 Pay Plan to increase pay rates for specific classes OF WORK to:

5 (1) recruit or retain competent personnel; or

6 (2) ensure that pay rates adequately compensate for the effort, knowledge,
7 responsibility, skills, and working conditions of employees in the class OF WORK.

8 (c) If an amendment affects a position in the executive branch that is listed in the
9 budget bill in accordance with § 7-109 of the State Finance and Procurement Article, the
10 amendment is contingent on the approval of the Board of Public Works.

11 (d) An amendment to the Standard Pay Plan may not take effect unless sufficient
12 money is available in the budget to cover the resulting pay rates.

13 (e) (1) Subject to § 2-1312 of the State Government Article, the Secretary shall
14 report all amendments to the Standard Pay Plan to the General Assembly on or before
15 the 15th day of the next regular legislative session.

16 (2) If the General Assembly rejects an amendment, the appropriate
17 reduction in pay rates takes effect as of the next fiscal year.

18 [6-106.] 8-106.

19 (a) This section applies only to the Standard Pay Plan.

20 (b) (1) The regulations adopted under this subtitle shall provide for automatic
21 increases, from minimum to maximum, of the pay rates set by the Standard Pay Plan.

22 (2) If the Secretary considers it inadvisable to provide automatic pay
23 increases for special cases or classes, the Secretary may establish flat pay rates for those
24 cases or classes for a period not exceeding 2 years.

25 [6-107.] 8-107.

26 (a) This section applies only to employees whose positions are in the Standard
27 Pay Plan.

28 [(b) Subject to the approval of the Secretary, but not otherwise, an employee in the
29 Standard Pay Plan shall be denied an automatic pay increase under the circumstances
30 described in subsection (c) of this section.]

31 (B) AN EMPLOYEE IN THE STANDARD PAY PLAN SHALL BE DENIED AN
32 AUTOMATIC PAY INCREASE IN ANY YEAR IF:

33 (1) AN APPOINTING AUTHORITY HAS IMPOSED THE DENIAL AS A
34 DISCIPLINARY ACTION UNDER TITLE 11, SUBTITLE 1 OF THIS ARTICLE; OR

35 (2) THE APPOINTING AUTHORITY RECOMMENDS THE DENIAL BECAUSE
36 OF:

1 (I) AN EXTENSION OF AN EMPLOYEE'S PERIOD OF PROBATION
2 UNDER § 7-403 OF THIS ARTICLE; OR

3 (II) A SUBSTANTIAL REASON THAT ADVERSELY AFFECTS THE
4 VALUE OF THE EMPLOYEE TO THIS STATE, INCLUDING THE EMPLOYEE'S
5 INEFFICIENCY OR UNUSUAL OR EXCESSIVE ABSENTEEISM.

6 [(c) (1) A pay increase shall be denied in any year if the appointing authority
7 recommends the denial because of a substantial reason that adversely affects the value of
8 the employee to this State, including the employee's inefficiency or unusual or excessive
9 absenteeism.

10 (2) A pay increase shall be denied during a period of extended probation if
11 the employee's probationary period was extended under Title 4, Subtitle 4 of this article
12 to a total period of more than 6 months.

13 (3) A pay increase shall be denied for a period of 1 year from the beginning
14 of a disciplinary suspension under Title 9, Subtitle 4 of this article.]

15 [(d)] (C) [(1)] An employee who is denied a pay increase under [subsection
16 (c)(1) or (c)(2) of] this section may appeal the denial [to the Secretary] UNDER THE
17 APPEAL PROCEDURES FOR DISCIPLINARY ACTIONS IN TITLE 11 OF THIS ARTICLE.

18 [(2) (i) An employee who is denied a pay increase under subsection (c)(3)
19 of this section may appeal the denial to the Secretary concurrently with an appeal of the
20 suspension under Title 9, Subtitle 4 of this article.

21 (ii) On appeal, the Secretary may:

22 1. determine whether the disciplinary suspension and the
23 resulting denial of a pay increase were justified; and

24 2. change or modify the suspension and the denial according to
25 that determination.]

26 [(e) After making a second recommendation under subsection (c)(1) of this
27 section to deny the same classified service employee a pay increase, the appointing
28 authority may file charges for the removal of the employee.]

29 [6-108.] 8-108.

30 (a) This section applies only to the Executive Pay Plan.

31 (b) (1) An increase in a pay rate under this subsection:

32 (i) may be given only with the approval of the Governor; and

33 (ii) shall be based on the employee's performance.

34 (2) For or during a fiscal year, the head of a unit may recommend an
35 increase in an employee's pay rate above the rate for the previous fiscal year by one step
36 in the same grade.

90

1 (3) For or during a fiscal year, in recognition of the employee's exceptional
2 performance, the head of a unit may recommend an increase in an employee's pay rate
3 above the rate for the previous fiscal year by two steps in the same grade.

4 (4) Subject to § 2-1312 of the State Government Article, the Secretary shall
5 notify the Department of Fiscal Services, on or before January 1 and July 1 of each year,
6 of any pay adjustments made under this subsection during the preceding 6 months.

7 (c) (1) A pay increase under this subsection may be made:

8 (i) to recruit or retain competent employees; or

9 (ii) for any other reason that the Board of Public Works approves.

10 (2) Subject to the approval of the Board of Public Works, the Governor may
11 approve:

12 (i) a pay increase above the rate for the previous fiscal year of more
13 than two steps in the same grade;

14 (ii) a change in pay grade;

15 (iii) a change from one [job] class in a series to a different [job] class
16 in the same series;

17 (iv) a new [job] class or position; or

18 (v) another form of pay increase.

19 (3) Subject to § 2-1312 of the State Government Article, the Secretary shall
20 submit to the Department of Fiscal Services a copy of documentation for any specific
21 recruitment, retention, or other issue that warranted a pay increase under this subsection.

22 [6-109.] 8-109.

23 (a) Subject to the approval of the Governor, the Secretary at any time may
24 decrease the pay rate for any class included in:

25 (1) the Standard Pay Plan; or

26 (2) except for a position for which pay is set by a unit with independent
27 pay-setting authority, the Executive Pay Plan.

28 (b) A decrease of a pay rate under this section applies to all employees in the
29 affected class.

30 Subtitle 2. Special Pay Provisions.

31 [6-201.] 8-201.

32 (a) This section applies to:

33 (1) all employees[, including classified, unclassified, full-time, part-time,
34 permanent, temporary, and contractual employees,] of all units in the executive branch of
35 State government, including any unit with an independent personnel system; and

91

1 (2) all [classified service] employees of the District Court of Maryland
2 WHO ARE IN THE STATE PERSONNEL MANAGEMENT SYSTEM.

3 (b) (1) An employee subject to this section is entitled to extra pay, known as
4 shift differential pay, if the employee:

5 (i) is employed in a position designated for this purpose; and

6 (ii) works on a shift that starts on or after 2:00 p.m. and on or before
7 1:00 a.m.

8 (2) A State-employed fire fighter is entitled to shift differential pay for
9 qualifying hours if the fire fighter works on a shift of at least 8 hours, regardless of the
10 time that the shift starts.

11 (c) (1) The Secretary shall adopt regulations for the payment of shift
12 differential pay.

13 (2) The regulations adopted under this section shall provide for fairness and
14 equity among all employees in consideration of:

15 (i) the hours worked;

16 (ii) conditions and places of employment;

17 (iii) prevailing practices in the locality; and

18 (iv) other factors that the Secretary considers relevant under the
19 circumstances.

20 [6-202.] 8-202.

21 (a) An employee of the State Fire Marshal's Office is entitled to extra pay, known
22 as hazardous duty pay, if the employee works as a member of a bomb squad or as an
23 explosives technician.

24 (b) Hazardous duty pay under this section shall be set by the Secretary in an
25 amount not to exceed \$50 a month.

26 Subtitle 3. Overtime Compensation.

27 [6-301.] 8-301.

28 (a) Except as provided in subsection (b) of this section, in [§ 6-309] § 8-309 of
29 this subtitle, or otherwise by law, this subtitle applies to[:] ALL EMPLOYEES OVER
30 WHOM THE SECRETARY HAS AUTHORITY TO ADMINISTER PAY.

31 [(1) all employees, including classified, unclassified, full-time, part-time,
32 permanent, temporary, and contractual employees, of all units in the executive branch of
33 State government, including any unit with an independent personnel system; and

34 (2) all classified service employees of the District Court of Maryland.]

35 (b) This subtitle does not apply to a law enforcement employee of the
36 Investigative Services Unit of the State Comptroller's office.

92

1 [6-302.] 8-302.

2 (a) This subtitle shall be interpreted and applied, to the extent applicable, in
3 accordance with the federal Fair Labor Standards Act.

4 (b) All employees subject to this subtitle are entitled to the greater of:

5 (1) the benefits that are provided in this subtitle; or

6 (2) to the extent applicable, the benefits required by the federal Fair Labor
7 Standards Act.

8 [6-303.] 8-303.

9 (a) Except as otherwise provided in this subtitle, an employee who works more
10 than the normal workweek for that employee's unit is entitled to compensation for that
11 overtime work in the form of:

12 (1) payment as provided in [§ 6-305] § 8-305 of this subtitle; or

13 (2) compensatory time as provided in [§ 6-307] § 8-307 of this subtitle.

14 (b) The Secretary shall adopt regulations to prevent:

15 (1) the granting of unnecessary overtime; and

16 (2) the failure to grant overtime compensation to an eligible employee.

17 [6-304.] 8-304.

18 (a) Except as provided in subsection (b) of this section, an employee's regular
19 hourly rate of pay is computed for purposes of this subtitle by dividing the employee's
20 total regular weekly pay by the total number of hours in the employee's normal workweek.

21 (b) The regular hourly rate of pay for an employee of a hospital or domiciliary
22 care facility for the ill, aged, or disabled may be computed for purposes of this subtitle by
23 dividing the employee's total regular 2-week pay by the total number of hours in the
24 employee's normal 2-week work period.

25 [6-305.] 8-305.

26 (a) Except as otherwise provided in this section:

27 (1) payment for time worked in excess of an employee's normal workweek
28 but not in excess of 40 hours in that workweek shall be made at the employee's regular
29 hourly rate of pay; and

30 (2) payment for time worked in excess of 40 hours in a workweek shall be
31 made at one and one-half times the employee's regular hourly rate of pay.

32 (b) (1) This subsection applies to those employees of a hospital or domiciliary
33 care facility for the ill, aged, or disabled whose overtime compensation is computed on
34 the basis of a 2-week work period under [§ 6-304(b)] § 8-304(B) of this subtitle.

35 (2) For an employee subject to this subsection, payment for overtime work
36 shall be made at the greater of:

93

1 (i) one and one-half times the employee's regular hourly rate of pay
2 for time worked in excess of 80 hours in the 2-week work period; or

3 (ii) one and one-half times the employee's regular hourly rate of pay
4 for time worked during that 2-week work period that is in excess of 8 hours in any
5 workday.

6 (c) (1) This subsection applies to law enforcement and civilian employees of the
7 Department of State Police who participate in the modified workday program established
8 in accordance with Article 88B, § 23B of the Code.

9 (2) For an employee subject to this subsection, payment for overtime work
10 shall be made at the greater of:

11 (i) one and one-half times the employee's regular hourly rate of pay
12 for time worked in excess of 40 hours in the established work period; or

13 (ii) one and one-half times the employee's regular hourly rate of pay
14 for time worked during that work period that is in excess of the established workday.

15 (d) A unit may adopt alternate work periods as allowed by the federal Fair Labor
16 Standards Act for the purpose of determining payment for overtime work for its law
17 enforcement employees or fire fighters.

18 [6-306.] 8-306.

19 Payment for overtime work shall be made on or before the day the employee is paid
20 for the second pay period following the pay period in which the payment for overtime
21 work is earned.

22 [6-307.] 8-307.

23 (a) By regulations consistent with the federal Fair Labor Standards Act, the
24 Secretary may provide for employees who otherwise would be entitled to payment for
25 overtime work to elect to receive compensatory time instead.

26 (b) These regulations shall provide that an employee who elects to receive
27 compensatory time must notify the employee's supervisor of that election before the
28 overtime work is performed.

29 (c) Compensatory time under this section shall equal:

30 (1) 1 hour for each hour of overtime work for which the employee otherwise
31 would receive the employee's regular hourly rate of pay; and

32 (2) 1.5 hours for each hour of overtime work for which the employee
33 otherwise would receive one and one-half times the employee's regular hourly rate of
34 pay.

35 [6-308.] 8-308.

36 (a) Except as provided in [§ 6-305(c)] § 8-305(C) of this subtitle, a law
37 enforcement employee of any unit of State government or a State Police cadet who works
38 more than 8 hours in a normal 8-hour workday is entitled to be paid at the rate of one

94

1 and one-half times the employee's or cadet's regular hourly rate of pay for time worked
2 in excess of 8 hours.

3 (b) (1) In this subsection, "off-duty hours" means any hours:

4 (i) during a law enforcement employee's scheduled off-duty day; or

5 (ii) during a law enforcement employee's on-duty day after the
6 employee has gone off duty.

7 (2) Except as otherwise provided in this subsection, a law enforcement
8 employee of any unit of State government who is called to duty on the employee's
9 scheduled off-duty day is entitled to be paid at the rate of one and one-half times the
10 employee's regular hourly rate of pay for each hour worked on the off-duty day.

11 (3) Except as provided in paragraph (4) of this subsection, a law
12 enforcement employee of the Department of State Police holding a noncommissioned
13 rank or a law enforcement employee of the Department of Natural Resources holding a
14 rank of sergeant or below, park ranger supervisor or below, or park services supervisor or
15 below who is called to duty during the employee's off-duty hours is entitled to be paid at
16 the rate of one and one-half times the employee's regular hourly rate of pay for the
17 greater of:

18 (i) the hours worked during the off-duty hours; or

19 (ii) 4 hours.

20 (4) A law enforcement employee of the Department of State Police holding
21 a noncommissioned rank or a law enforcement employee of the Department of Natural
22 Resources holding a rank of sergeant or below who makes an appearance in court on
23 official duty during the employee's off-duty hours is entitled to be paid at the rate of one
24 and one-half times the employee's regular hourly rate of pay for the greater of:

25 (i) the hours worked during the off-duty hours; or

26 (ii) 2 hours.

27 (c) A law enforcement employee of the Department of State Police holding a
28 noncommissioned rank, a law enforcement employee of the Department of Natural
29 Resources holding a rank of sergeant or below, or a police communications operator of
30 the Department of State Police or Natural Resources Police who is required to work 4 or
31 more hours on New Year's Day, Thanksgiving Day, or Christmas Day, or who is
32 scheduled to be off duty on New Year's Day, Thanksgiving Day, or Christmas Day and is
33 called to duty on any part of that day is entitled to:

34 (1) compensatory time of 1 day; and

35 (2) payment at the rate of one and one-half times the employee's regular
36 hourly rate of pay for each hour worked on that day.

37 [6-309.] 8-309.

38 (a) The Secretary may designate, subject to the Secretary's salary-setting
39 authority, those bona fide administrative, executive, and professional employees who may

95

1 not receive payment for overtime work, but who may be granted compensatory time for
2 overtime work.

3 (b) On or after July 1, 1989, an employee who is included in the Executive Pay
4 Plan at a pay grade of (ES) 6 or above is not entitled to accrue any compensatory time
5 other than as provided in [§ 7-206] § 9-205(A)(2) of this article for holiday work.

6 (c) A law enforcement employee of the Department of State Police holding a
7 commissioned rank or a law enforcement employee of the Natural Resources Police
8 holding a rank above sergeant may not receive payment for any overtime work, but may
9 be granted compensatory time for overtime work in excess of 30 overtimehours in a fiscal
10 year.

11 Subtitle 4. [Payroll] PROHIBITED ACTS AND PENALTIES.

12 [6-401.

13 (a) Except as provided in subsection (b) of this section and notwithstanding any
14 other law, the Central Payroll Bureau of the Office of the State Comptroller shall provide
15 for the payment of all wages to:

16 (1) each officer and employee of this State who is paid from funds
17 appropriated by the General Assembly; and

18 (2) whether or not paid from funds appropriated by the General Assembly,
19 each officer and employee of:

20 (i) the University of Maryland System;

21 (ii) Morgan State University;

22 (iii) St. Mary's College of Maryland; and

23 (iv) Baltimore City Community College.

24 (b) The Central Payroll Bureau shall maintain all supporting payrollrecords for
25 the payment of wages under this section.]

26 [6-402.

27 (a) Subject to subsection (b) of this section, on the written request of an employee
28 to pay dues to an organization by payroll deduction, the Central Payroll Bureau shall:

29 (1) deduct the dues from the employee's wages; and

30 (2) timely pay over the amount deducted to the organization.

31 (b) The Central Payroll Bureau may deduct dues under this section only for:

32 (1) an organization that has a membership of 1,000 or more State
33 employees;

34 (2) an organization for which the potential field of memberships limited to
35 fewer than 1,000 State employees, if the Governor has approved the deduction for that
36 organization; or

96

1 (3) an organization for which payment of dues by payroll deduction was
2 authorized on or before June 29, 1983.

3 (c) An employee may cancel a payroll deduction of organization dues by written
4 notification to the Central Payroll Bureau.

5 (d) The State Comptroller shall adopt regulations to carry out this section.]

6 [6-403.

7 (a) (1) This section applies to income tax that is imposed by a state other than
8 this State.

9 (2) This section does not apply to any income tax that is imposed by a
10 political subdivision of another state.

11 (b) Subject to subsection (c) of this section, the Central Payroll Bureau shall:

12 (1) withhold income tax imposed by another state from the wages of a State
13 officer or employee who is a resident of that state; and

14 (2) pay over the amount withheld to the appropriate tax collecting agency of
15 that state.

16 (c) This section applies only if:

17 (1) Maryland State income tax is not required to be withheld from the wages
18 of the officer or employee under Title 10, Subtitle 9, Part II of the Tax - General Article;
19 and

20 (2) the state where the officer or employee resides:

21 (i) withholds Maryland State income tax from the wages of Maryland
22 residents who are employed by that state; and

23 (ii) pays over the amount withheld to the Maryland State
24 Comptroller.]

25 [6-404.] 8-401.

26 [(a) (1) This subsection does not apply to the wages of an employee holding an
27 emergency or temporary extra position under § 12-101 or § 12-102 of this article.

28 (2) An officer of this State may not participate, in any way, in paying or
29 approving any wages for classified services to an individual who is not a classified service
30 employee.]

31 [(b)] Subject to the approval of the Governor, the Secretary may adopt regulations
32 that prohibit a State officer from paying an employee in the State Personnel Management
33 System any wages unless:

34 (1) the officer has a payroll authorization from the Secretary that lists:

35 (i) the name of that employee;

36 (ii) the amount to be paid to that employee; and

97

1 (iii) the services for which payment is to be paid; and

2 (2) the head of a principal [department or other independent] unit certifies
3 in each payroll for that [department or] unit that the employees named in the payroll
4 have been lawfully employed during the pay period and are entitled to the compensation
5 authorized by the Secretary.

6 8-402.

7 [(c)] Money paid in violation of this section or in violation of any regulation
8 adopted under [subsection (b) of this section] § 8-403 OF THIS SUBTITLE may be
9 recovered from the officer who pays or authorizes payment of the money or from the
10 sureties of that officer's official bond.

11 Title [7.] 9. Leave Time and Holidays.

12 Subtitle 1. General Provisions.

13 [7-101.] 9-101.

14 (a) (1) Except as provided in paragraph (2) of this subsection, this section
15 applies to:

16 (i) all employees [including classified, unclassified, full-time,
17 part-time, permanent, temporary, and contractual employees, of all units] in the
18 executive branch of State government; and

19 (ii) all [classified service] employees of the District Court of
20 Maryland WHO ARE IN THE STATE PERSONNEL MANAGEMENT SYSTEM.

21 (2) Except as otherwise provided by law, this section applies to all
22 employees of [any] A State institution of higher education, including the University of
23 Maryland System and Morgan State University, but does not apply to any other unit with
24 an independent personnel system.

25 (b) [Subject to the requirements of this title, the Secretary shall adopt regulations
26 governing all aspects of annual leave, personal leave, sick leave, compensatory leave, and
27 the keeping of time records for all employees subject to this section.] SUBJECT TO THE
28 REQUIREMENTS OF THIS TITLE, THE SECRETARY SHALL ADOPT REGULATIONS,
29 POLICIES, AND GUIDELINES THAT:

30 (1) GOVERN ALL ASPECTS OF ANNUAL LEAVE, PERSONAL LEAVE, SICK
31 LEAVE, COMPENSATORY LEAVE, AND THE KEEPING OF TIME RECORDS FOR ALL
32 EMPLOYEES SUBJECT TO THIS SECTION;

33 (2) REQUIRE EACH UNIT SUBJECT TO THE REGULATIONS TO SUBMIT TO
34 THE SECRETARY AN ANNUAL REPORT THAT INCLUDES:

35 (I) THE TOTAL NUMBER OF EMPLOYEES IN THE UNIT; AND

36 (II) THE AGGREGATE AMOUNTS OF ANNUAL, PERSONAL, AND SICK
37 LEAVE TAKEN BY THE EMPLOYEES IN THE UNIT;

98

1 (3) PROVIDE FOR COMPUTATIONS IN A PAY PERIOD OF:

2 (I) ACCRUALS OF ANNUAL AND SICK LEAVE; AND

3 (II) DEDUCTIONS FROM PAY OF LEAVE USE; AND

4 (4) PROVIDE FOR CONVERSIONS OF LEAVE TIME AND HOLIDAY TIME
5 FOR EMPLOYEES WHO DO NOT HAVE AN 8-HOUR DAILY WORK SCHEDULE.

6 [7-102.

7 (a) The regulations adopted by the Secretary under § 7-101 of this subtitle shall
8 require each unit subject to those regulations to submit to the Secretary periodic reports
9 that include:

10 (1) the total number of employees in the unit; and

11 (2) the aggregate amounts of annual, personal, and sick leave taken by the
12 employees in the unit.

13 (b) The Secretary shall:

14 (1) compile all leave reports received from all units; and

15 (2) maintain a central data base on those reports.]

16 9-102.

17 THE SECRETARY SHALL COMPILE ALL LEAVE REPORTS RECEIVED UNDER §
18 9-101 OF THIS SUBTITLE AND MAINTAIN A CENTRAL DATABASE ON THOSE REPORTS.

19 [7-103.

20 (a) Credits for annual or sick leave earned by an employee under this title shall be
21 based pro rata on the number of workdays in the employee's pay period.

22 (b) (1) Deductions from the pay of an employee for an absence from work
23 without pay shall be based pro rata on the number of workdays in the employee's pay
24 period.

25 (2) Deductions from the pay of an employee may not be made for an
26 absence from work for which the employee is entitled to leave with pay.]

27 [7-104.] 9-103.

28 While using leave with pay under this title, an employee:

29 (1) does not lose any health insurance benefits with the subsidy allowed in
30 [Title 8, Subtitle 1] TITLE 2, SUBTITLE 5 of this article solely because of use of the paid
31 leave;

32 (2) continues seniority and leave accruals based on the employee's regular
33 hours; and

34 (3) except as provided in [§ 7-605] § 9-704 of this title, is entitled to pay for
35 the leave at the employee's regular hourly rate for the hours of leave.

99

1 Subtitle 2. Holiday Leave.

2 9-201.

3 (A) IN THIS TITLE, "EMPLOYEE HOLIDAY" INCLUDES:

4 (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE
5 HOLIDAYS LISTED IN ARTICLE 1, § 27 OF THE CODE; AND

6 (2) THE FRIDAY AFTER THANKSGIVING DAY.

7 (B) "EMPLOYEE HOLIDAY" DOES NOT INCLUDE THE FOLLOWING HOLIDAYS
8 LISTED IN ARTICLE 1, § 27 OF THE CODE ON WHICH THE STATE MAINTAINS FULL
9 OPERATIONS:

10 (1) DEFENDER'S DAY;

11 (2) GOOD FRIDAY;

12 (3) LINCOLN'S BIRTHDAY; AND

13 (4) MARYLAND DAY.

14 [7-201.] 9-202.

15 (a) Except as provided in subsection (b) of this section, this subtitle applies to:

16 (1) all employees[, including classified, unclassified, full-time, part-time,
17 permanent, and temporary employees,] of all units in the executive branch of State
18 government, including any unit with an independent personnel system; and

19 (2) all [classified service] employees of the District Court of Maryland
20 WHO ARE IN THE STATE PERSONNEL MANAGEMENT SYSTEM.

21 (b) This subtitle does not apply to:

22 (1) contractual employees; or

23 (2) employees of any unit that is authorized or required by law to establish
24 holiday schedules different from those provided in this subtitle.

25 [(c) Except for § 7-206 of this subtitle, the rulemaking and other authority of the
26 Secretary with respect to this subtitle extends only to those employees who are in the
27 State Personnel Management System.]

28 [7-202.] 9-203.

29 Each employee SUBJECT TO THIS SUBTITLE is entitled to holiday leave with pay for
30 [the holidays listed in Article 1, § 27 of the Code] EACH EMPLOYEE HOLIDAY
31 SPECIFIED IN § 9-201 OF THIS SUBTITLE.

32 [7-203.] 9-204.

33 (a) Except as otherwise provided in this subtitle, an employee shall use holiday
34 leave on the day the EMPLOYEE holiday occurs.

35 (b) Except as otherwise provided in this subtitle:

100

1 (1) if the EMPLOYEE holiday occurs on a Saturday, an employee shall use
2 holiday leave on the Friday immediately before the EMPLOYEE holiday; and

3 (2) if the EMPLOYEE holiday occurs on a Sunday, an employee shall use
4 holiday leave on the Monday immediately following the EMPLOYEE holiday.

5 [7-204.

6 (a) The State government maintains operations on the days when the following
7 holidays are observed:

8 (1) Defender's Day;

9 (2) Good Friday;

10 (3) Lincoln's Birthday; and

11 (4) Maryland Day.

12 (b) An employee who works on any of the holidays listed in subsection (a) of this
13 section may request leave with pay on an alternative workday.

14 (c) The appointing authority shall approve a request made under subsection (b)
15 of this section unless the appointing authority determines that the employee's absence on
16 the requested alternative workday will interfere unduly with the conduct of public
17 business.

18 (d) Leave under this section:

19 (1) may not be used before the holiday is observed; and

20 (2) is forfeited if it is not used before that holiday is next observed.]

21 [7-205.] 9-205.

22 (A) (1) Except [for a holiday listed in § 7-204 of this subtitle and except as
23 otherwise provided in § 7-206 of this subtitle] AS OTHERWISE PROVIDED IN
24 PARAGRAPH (2) OF THIS SECTION or in any other law, an [employee] EMPLOYEE, who
25 because of the nature of the employee's [duties] DUTIES, is required to work on any part
26 of [a holiday listed in Article 1, § 27 of the Code] AN EMPLOYEE HOLIDAY shall receive
27 compensatory time for that work.

28 (2) AN EMPLOYEE WHO IS INCLUDED IN THE EXECUTIVE PAY PLAN AT
29 A PAY GRADE OF (ES) 6 OR ABOVE MAY RECEIVE COMPENSATORY TIME FOR WORK
30 ON AN EMPLOYEE HOLIDAY ONLY IF THE EMPLOYEE WORKS 5 OR MORE HOURS ON
31 THE HOLIDAY. THE EMPLOYEE SHALL RECEIVE 1 DAY OF COMPENSATORY TIME
32 FOR EACH EMPLOYEE HOLIDAY ON WHICH THE EMPLOYEE WORKS 5 HOURS OR
33 MORE.

34 (B) AN EMPLOYEE MUST USE ANY COMPENSATORY TIME ACCRUED UNDER
35 THIS SECTION WITHIN 1 YEAR AFTER HAVING ACCRUED THAT TIME.

101

1 [7-206.

2 (a) (1) This section applies only to employees who are included in the Executive
3 Pay Plan at a pay grade of (ES) 6 or above.

4 (2) This section does not apply to compensatory time earned on or before
5 June 30, 1989.

6 (b) On or after July 1, 1989, an employee subject to this section may not accrue
7 any compensatory time other than for work on a holiday and only if the employee works
8 5 or more hours on the holiday.

9 (c) An employee subject to this section accrues 1 workday of compensatory time
10 for each holiday on which the employee works 5 hours or more.

11 (d) An employee must use any compensatory time accrued under this section
12 within 1 year after having accrued that time.]

13 Subtitle 3. Annual Leave.

14 [7-301.

15 This subtitle applies to all classified service and unclassified service employees in
16 the State Personnel Management System.]

17 [7-302.] 9-301.

18 (a) Each employee [subject to this subtitle] IN THE STATE PERSONNEL
19 MANAGEMENT SYSTEM, EXCEPT A TEMPORARY EMPLOYEE, is entitled to annual
20 leave with pay as provided in this subtitle.

21 (b) Annual leave may be used for any purpose.

22 [7-303.] 9-302.

23 (a) In this section, "total State service" includes any previous State service.

24 (b) Annual leave accrues as follows, on a pro rata basis:

25 (1) for an employee whose total State service is less than 5 years, at the rate
26 of 10 workdays NOT TO EXCEED 80 HOURS, a year;

27 (2) for an employee whose total State service is at least 5 years but less than
28 10 years, at the rate of 15 workdays NOT TO EXCEED 120 HOURS, a year;

29 (3) for an employee whose total State service is at least 10 years but less
30 than 20 years, at the rate of 20 workdays NOT TO EXCEED 160 HOURS, a year; and

31 (4) for an employee whose total State service is 20 years or more, at the rate
32 of 25 workdays NOT TO EXCEED 200 HOURS, a year.

102

1 [7-304.] 9-303.

2 (a) Except as provided in subsection (b) of this section, an employee may use
3 annual leave at any time after obtaining approval from the [head of the employee's
4 principal department or other independent unit] EMPLOYEE'S SUPERVISOR.

5 (b) An employee may not use annual leave until the employee has completed 6
6 months of State service.

7 [7-305.

8 (a) Except as provided in subsection (b) of this section, an employee may use 2
9 days of annual leave at any time after notice to the employee's immediate supervisor.

10 (b) (1) If an employee is scheduled to work on a holiday or is employed in a unit
11 that provides a service continuously on a 7-day-a-week basis, the employee may use the
12 2 days of annual leave provided for in this section only after obtaining approval from the
13 employee's appointing authority.

14 (2) If the request is made to observe a religious holiday, the appointing
15 authority may deny the request only if:

16 (i) the employee's unit provides a service continuously on a
17 7-day-a-week basis;

18 (ii) the denial is necessary because of a critical shortage of staff in the
19 unit; and

20 (iii) no reasonable accommodation to the employee's request can be
21 made.

22 (3) If the request is made for any other reason, the appointing authority may
23 deny the request only if the denial is necessary because of a critical shortage of staff in the
24 employee's unit.]

25 [7-306.] 9-304.

26 (a) (1) An employee may accumulate unused annual leave and may carryover
27 from 1 year to the next year up to [45] 50 days OR 400 HOURS of that unused annual
28 leave.

29 (2) Any accumulated and unused annual leave in excess of [45] 50 days OR
30 400 HOURS shall be forfeited at the beginning of the first full pay period of the next
31 calendar year.

32 (b) (1) If an employee is denied the opportunity in 1 calendar year to use
33 annual leave days in excess of the [45] 50 days OR 400 HOURS allowed to be carried over
34 to the next year, the head of the employee's principal [department or other
35 independent] unit may [request the Secretary to] allow the employee compensation, at
36 the employee's regular rate of pay, for those excess leave days.

37 (2) The [Secretary] HEAD OF A PRINCIPAL UNIT may approve a request
38 for compensation under this subsection only if:

103

1 (i) the [department or unit head] APPOINTING AUTHORITY
2 documents the unusual administrative reasons for having denied the employee the use of
3 annual leave; and

4 (ii) funds are available for that purpose.

5 [7-307.] 9-305.

6 (a) Except for employees covered by a collective bargaining agreement and except
7 as provided in [§ 7-308] § 9-306 of this subtitle, an employee is entitled, on termination
8 of State employment, to compensation for unused annual leave.

9 (b) The amount of compensation to be paid under this section shall equal
10 one-tenth of the employee's established biweekly compensation at the time of
11 termination of State employment, multiplied by:

12 (1) the number of days of annual leave, not exceeding [45] 50 days OR 400
13 HOURS that were accrued at the end of the previous calendar year and that remain
14 unused; and

15 (2) the number of days of annual leave that accrued during the calendar
16 year in which the employee's State employment terminates and that remain unused.

17 [7-308.] 9-306.

18 (a) An employee whose State employment is terminated for a cause involving
19 moral turpitude forfeits all unused annual leave and all compensation for unused annual
20 leave.

21 (b) An employee whose State employment terminates within 6 months after the
22 employee's original appointment is not eligible for annual leave or compensation for
23 annual leave.

24 9-307.

25 ANNUAL LEAVE THAT IS FORFEITED UNDER §§ 9-304 AND 9-306 OF THIS
26 SUBTITLE IS PLACED IN THE STATE EMPLOYEES' LEAVE BANK ESTABLISHED BY §
27 9-602(A)(1) OF THIS TITLE.

28 [7-309.] 9-308.

29 An employee may voluntarily donate any amount of the employee's annual leave to
30 the State Employees' Leave Bank or to another State employee [who has exhausted all
31 available annual, personal, sick, and compensatory leave because of a serious and
32 prolonged medical condition] UNDER THE EMPLOYEE-TO-EMPLOYEE LEAVE
33 DONATION PROGRAM UNDER SUBTITLE 6 OF THIS TITLE.

34 Subtitle 4. Personal Leave.

35 [7-401.]

36 This subtitle applies to all classified service and unclassified service employees in
37 the State Personnel Management System.]

104

1 [7-402.] 9-401.

2 (a) [Each employee subject to this subtitle is entitled to 3 days of personal leave
3 with pay in a calendar year.]

4 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
5 EACH EMPLOYEE IN THE STATE PERSONNEL MANAGEMENT SYSTEM, EXCEPT A
6 TEMPORARY EMPLOYEE, IS ENTITLED TO 6 DAYS, NOT TO EXCEED 48 HOURS, OF
7 PERSONAL LEAVE WITH PAY AT THE BEGINNING OF THE FIRST FULL PAY PERIOD OF
8 THE NEXT CALENDAR YEAR.

9 (2) FOR THE CALENDAR YEAR IN WHICH AN EMPLOYEE BEGINS
10 EMPLOYMENT, THE EMPLOYEE IS ENTITLED ONLY TO THE FOLLOWING PERSONAL
11 LEAVE WITH PAY:

12 (I) 6 DAYS, NOT TO EXCEED 48 HOURS, IF EMPLOYMENT BEGINS
13 ON OR AFTER JANUARY 1 AND ON OR BEFORE THE LAST DAY IN FEBRUARY;

14 (II) 5 DAYS, NOT TO EXCEED 40 HOURS, IF EMPLOYMENT BEGINS
15 ON OR AFTER MARCH 1 AND ON OR BEFORE APRIL 30;

16 (III) 4 DAYS, NOT TO EXCEED 32 HOURS, IF EMPLOYMENT BEGINS
17 ON OR AFTER MAY 1 AND ON OR BEFORE JUNE 30; OR

18 (IV) 3 DAYS, NOT TO EXCEED 24 HOURS, IF EMPLOYMENT BEGINS
19 ON OR AFTER JULY 1.

20 (b) Personal leave may be used for any purpose.

21 [7-403.] 9-402.

22 (a) Except as provided in subsection (b) of this section, an employee may use
23 personal leave after notice to the employee's immediate supervisor.

24 (b) (1) If an employee is scheduled to work on a holiday or is employed in a unit
25 that provides a service continuously on a 7-day-a-week basis, the employee may use
26 personal leave only after obtaining approval from the employee's appointing authority.

27 (2) If the request is made to observe a religious holiday, the appointing
28 authority may deny the request only if:

29 (i) the employee's unit provides a service continuously on a
30 7-day-a-week basis;

31 (ii) the denial is necessary because of a critical shortage of staff in the
32 unit; and

33 (iii) no reasonable accommodation to the employee's request can be
34 made.

35 (3) If the request is made for any other reason, the appointing authority may
36 deny the request only if the denial is necessary because of a critical shortage of staff in the
37 employee's unit.

105

1 [7-404.] 9-403.

2 (a) (1) An employee may not accumulate unused personal leave.

3 (2) ANY UNUSED PERSONAL LEAVE SHALL BE FORFEITED AT THE
4 BEGINNING OF THE FIRST FULL PAY PERIOD OF THE NEXT CALENDAR YEAR.

5 (b) [At the end of each calendar year, the unused personal leave of all employees
6 becomes part of the State Employees' Leave Reserve Fund established by § 7-510 of this
7 title.] PERSONAL LEAVE THAT IS FORFEITED IS PLACED IN THE STATE EMPLOYEES'
8 LEAVE BANK ESTABLISHED BY § 9-602(A)(1) OF THIS TITLE.

9 [7-405.] 9-404.

10 An employee may voluntarily donate any amount of the employee's personal leave
11 to the State Employees' Leave Bank or to another State employee [who has exhausted all
12 available annual, personal, sick, and compensatory leave because of a serious and
13 prolonged medical condition] UNDER THE EMPLOYEE-TO-EMPLOYEE LEAVE
14 DONATION PROGRAM UNDER SUBTITLE 6 OF THIS TITLE.

15 Subtitle 5. Sick Leave.

16 [7-501.

17 This subtitle applies to all classified service and unclassified service employees in
18 the State Personnel Management System.]

19 [7-502.] 9-501.

20 (a) Each employee [subject to this subtitle] IN THE STATE PERSONNEL
21 MANAGEMENT SYSTEM, EXCEPT A TEMPORARY EMPLOYEE, is entitled to sick leave
22 with pay as provided in this subtitle.

23 (b) Sick leave may be used:

24 (1) for illness or disability of the employee;

25 (2) for death, illness, or disability [in] OF A MEMBER OF the employee's
26 immediate family;

27 (3) following the birth of the employee's child; [or]

28 (4) when a child is placed with the employee for adoption; OR

29 (5) FOR A MEDICAL APPOINTMENT OF THE EMPLOYEE OR A MEMBER
30 OF THE EMPLOYEE'S IMMEDIATE FAMILY.

31 [7-503.] 9-502.

32 Fifteen days, NOT TO EXCEED 120 HOURS, of sick leave accrue to an employee each
33 year, on a pro rata basis, from the beginning of the employee's State service.

106

1 [7-504.] 9-503.

2 (a) Payment for sick leave taken under this subtitle for personal illness or
3 disability constitutes a separate benefit on account of sickness and is not a continuation of
4 salary.

5 (b) Payment for sick leave taken under this subtitle for any reason not specified in
6 subsection (a) of this section is a continuation of salary.

7 [7-505.] 9-504.

8 (A) [For each 30-day period in which an] AN employee WHO uses sick leave for
9 [5] 3 or more consecutive workdays for personal illness or disability[,the employee] OR
10 THE ILLNESS OR DISABILITY OF A MEMBER OF THE EMPLOYEE'S IMMEDIATE
11 FAMILY may not receive payment under this subtitle unless the employee gives the
12 employee's immediate supervisor an original certificate of illness or disability [signed by
13 one of the following:].

14 (B) THE CERTIFICATE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION
15 SHALL BE SIGNED BY ONE OF THE FOLLOWING:

16 (1) [an accredited Christian Science practitioner] A MEDICAL DOCTOR
17 WHO IS AUTHORIZED TO PRACTICE MEDICINE OR SURGERY BY THE STATE IN
18 WHICH THE DOCTOR PRACTICES; [or]

19 (2) [a person who is licensed or certified as a] IF AUTHORIZED TO
20 PRACTICE IN A STATE AND PERFORMING WITHIN THE SCOPE OF THAT AUTHORITY:

21 (i) A chiropractor;

22 (ii) A clinical psychologist;

23 (iii) A dentist;

24 (iv) A licensed certified social worker - clinical;

25 (v) A nurse midwife;

26 (vi) A nurse practitioner;

27 (vii) An oral surgeon;

28 (viii) AN OPTOMETRIST;

29 (IX) A physical therapist;

30 [(ix) physician;] or

31 (x) A podiatrist;

32 (3) AN ACCREDITED CHRISTIAN SCIENCE PRACTITIONER; OR

33 (4) A HEALTH CARE PROVIDER ORGANIZATION UNDER THE FEDERAL
34 FAMILY MEDICAL LEAVE ACT.

107

1 (C) THE CERTIFICATE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION
2 DUE TO AN EMPLOYEE'S ILLNESS OR DISABILITY SHALL INCLUDE A PROGNOSIS
3 ABOUT THE EMPLOYEE'S ABILITY TO RETURN TO WORK.

4 (D) AN APPOINTING AUTHORITY MAY WAIVE THE REQUIRED CERTIFICATE
5 OF ILLNESS UNDER SUBSECTION (A) OF THIS SECTION IF AN EMPLOYEE DOES NOT
6 HAVE A HISTORY OF SICK LEAVE ABUSE.

7 [7-508.] 9-505.

8 (a) [With the approval of the head of the employee's principal department or
9 other independent unit, an] AN employee who is primarily responsible for the care and
10 nurturing of a child may use, without certification of illness or disability, up to 30 days of
11 accrued sick leave to care for the child during the period immediately following:

12 (1) the birth of the employee's child; or

13 (2) the placement of the child with the employee for adoption.

14 (b) [With the approval of the head of the employee's principal department or
15 other independent unit, an] AN employee who is secondarily responsible for the care and
16 nurturing of a child may use, without certification of illness or disability, up to 10 days of
17 accrued sick leave to care for the child during the period immediately following:

18 (1) the birth of the employee's child; or

19 (2) the placement of the child with the employee for adoption.

20 (C) (1) AN EMPLOYEE WHO USES ACCRUED SICK LEAVE FOLLOWING THE
21 BIRTH OF THE EMPLOYEE'S CHILD MAY NOT RECEIVE PAYMENT UNDER THIS
22 SUBTITLE UNLESS THE EMPLOYEE GIVES THE EMPLOYEE'S IMMEDIATE SUPERVISOR
23 INFORMATION REQUIRED BY GUIDELINES ISSUED BY THE SECRETARY ABOUT THE
24 FAMILY MEDICAL LEAVE ACT OF 1993, 29 U.S.C. § 2601 ET SEQ.

25 (2) AN EMPLOYEE WHO USES ACCRUED SICK LEAVE FOR ADOPTION
26 PURPOSES MAY NOT RECEIVE PAYMENT UNDER THIS SUBTITLE UNLESS THE
27 EMPLOYEE GIVES THE EMPLOYEE'S IMMEDIATE SUPERVISOR THE CERTIFICATE
28 REQUIRED BY GUIDELINES ISSUED BY THE SECRETARY ABOUT THE FAMILY AND
29 MEDICAL LEAVE ACT OF 1993, 29 U.S.C. § 2601 ET SEQ.

30 [7-507.] 9-506.

31 (a) An employee may accumulate unused sick leave and use [it at any time] AS
32 PERMITTED BY § 9-501(B) OF THIS SUBTITLE.

33 (b) Except as otherwise provided by law, an employee whose State employment
34 terminates for any reason forfeits all unused sick leave.

35 9-507.

36 SICK LEAVE THAT IS FORFEITED IS PLACED IN THE STATE EMPLOYEES' LEAVE
37 BANK ESTABLISHED BY § 9-602(A)(1) OF THIS TITLE.

108

1 [7-506.] 9-508.

2 (a) Subject to subsection (b) of this section, an employee may voluntarily donate
3 the employee's unused sick leave to the State Employees' Leave Bank or to another State
4 employee [who has exhausted all available annual, personal, sick, and compensatory
5 leave because of a serious and prolonged medical condition] UNDER THE
6 EMPLOYEE-TO-EMPLOYEE LEAVE DONATION PROGRAM UNDER SUBTITLE 6 OF
7 THIS TITLE.

8 (b) An employee may donate sick leave under this section only to the extent that
9 the employee has a sick leave balance of at least 240 hours after the donation.

10 [7-509.

11 (a) The appointing authority may advance to an employee up to 60 days of sick
12 leave in a calendar year for use during the employee's serious illness or disability.

13 (b) Advanced sick leave may not be used for any purpose other than as specified
14 in subsection (a) of this section.

15 (c) Upon request by the employee, the Secretary may approve advanced sick leave
16 for an employee if the Secretary disagrees with a determination of an appointing
17 authority denying advanced sick leave.

18 (d) The Secretary may audit the granting of advanced sick leave by appointing
19 authorities.]

20 [7-510.

21 (a) An employee who has at least 5 years of State service may apply to the
22 employee's appointing authority for extended sick leave.

23 (b) Except as provided in subsection (c) of this section, the appointing authority
24 may authorize extended sick leave for up to 1 year if:

25 (1) the employee has an illness or disability that will cause an absence from
26 work for longer than the period of the employee's accumulated sick leave;

27 (2) the employee has exhausted all available advanced sick leave; and

28 (3) the appointing authority is satisfied that the case has merit.

29 (c) The appointing authority may not authorize extended sick leave for any period
30 that, when added to the total of all available annual, personal, sick, and advanced sick
31 leave, exceeds 15 months.

32 (d) An employee may not use extended sick leave for any purpose other than as
33 specified in subsection (b)(1) of this section.

34 (e) Upon request by the employee, the Secretary may approve extended sick leave
35 for an employee if the Secretary disagrees with a determination of an appointing
36 authority denying extended sick leave.

37 (f) The Secretary may audit the granting of extended sick leave by appointing
38 authorities.]

109

1 SUBTITLE 6. STATE EMPLOYEES' LEAVE BANK AND EMPLOYEE-TO-EMPLOYEE
2 LEAVE DONATION PROGRAM.

3 [7-511.

4 (a) There is a State Employees' Leave Bank.

5 (b) The Secretary shall administer the State Employees' Leave Bank.

6 (c) (1) The Secretary shall adopt regulations that:

7 (i) govern the donation of leave to the Leave Bank; and

8 (ii) establish procedures for granting donated leave to employees who
9 meet the criteria in subsection (e) of this section and provide the certification of illness
10 required in § 7-505 of this subtitle.

11 (2) The regulations shall provide for leave donations to and from employees
12 in units of State government with independent personnel systems that elect to participate
13 in the State Employees' Leave Bank in accordance with § 7-513 of this subtitle.

14 (d) An employee who donates annual, sick, or personal leave to the State
15 Employees' Leave Bank is a member.

16 (e) The Secretary may grant leave from the State Employees' Leave Bank to an
17 employee:

18 (1) who has exhausted all forms of annual, personal, sick, and compensatory
19 leave because of a serious and prolonged medical condition; and

20 (2) (i) who is a member of the State Employees' Leave Bank; or

21 (ii) whom the Secretary exempts from the membership requirement
22 for good cause.

23 (f) (1) An employee may not receive more than a total of 2,080 hours of
24 donated leave from the State Employees' Leave Bank and from other employees.

25 (2) An employee may not use leave from the Leave Bank for any continuous
26 period that, when combined with all other forms of paid leave, exceeds 16 months.

27 (g) If an employee is denied use of leave from the State Employees' Leave Bank,
28 the employee may appeal the denial in accordance with regulations adopted by the
29 Secretary.

30 (h) (1) An employee may not, through intimidation, threat, or coercion,
31 interfere with any right that another employee may have with respect to contributing,
32 receiving, or using leave under this section, including any promise to confer or conferring
33 any appointment, promotion, compensation, or other benefit, or effecting or threatening
34 to effect any reprisal, including the deprivation of appointment, promotion,
35 compensation, or other benefit.

36 (2) An employee who violates paragraph (1) of this subsection is subject to
37 disciplinary action, including the termination of State employment.]

110

1 [7-512.

2 (a) (1) The Secretary shall adopt regulations governing the donation and
 3 receipt of annual leave, personal leave, and sick leave donated by an employee to another
 4 employee in accordance with §§ 7-309, 7-405, and 7-506 of this title.

5 (2) The regulations shall provide for leave donations to and from employees
 6 in units of State government with independent personnel systems that elect to allow its
 7 employees to voluntarily donate leave to and receive leave from other employees in
 8 accordance with § 7-513 of this subtitle.

9 (b) The donating employee shall specify who may receive the leave donated under
 10 this section.

11 (c) (1) An employee may not receive more than a total of 2,080 hours of
 12 donated leave from the State Employees' Leave Bank and from other employees.

13 (2) An employee may not use leave donated by other employees for any
 14 continuous period that, when combined with all other forms of paid leave, exceeds 16
 15 months.

16 (3) An employee who receives leave under this section may only use the
 17 donated leave for an illness or disability of the employee due to the medical condition
 18 that existed at the time of the donation.

19 (d) If an employee is denied use of leave donated under this section, the employee
 20 may appeal the denial in accordance with regulations adopted by the Secretary.

21 (e) (1) An employee may not, through intimidation, threat, or coercion,
 22 interfere with any right that another employee may have with respect to contributing,
 23 receiving, or using leave under this section, including any promise to confer or conferring
 24 any appointment, promotion, compensation, or other benefit, or effecting or threatening
 25 to effect any reprisal, including the deprivation of appointment, promotion,
 26 compensation, or other benefit.

27 (2) An employee who violates paragraph (1) of this subsection is subject to
 28 disciplinary action, including the termination of State employment.]

29 [7-513.

30 (a) A principal department or other independent unit in the executive, judicial, or
 31 legislative branches of State government with an independent personnel system may allow
 32 its employees to:

33 (1) voluntarily participate in the State Employees' Leave Bank in
 34 accordance with § 7-511 of this subtitle; and

35 (2) voluntarily donate to and receive leave from other employees, including
 36 those in other personnel systems, in accordance with §§ 7-309, 7-405, 7-506, and 7-512 of
 37 this title.

38 (b) (1) An employee who receives leave under subsection (a) of this section may
 39 not receive more than a total of 2,080 hours of donated sick leave from the State
 40 Employees' Leave Bank and from other employees.

111

1 (2) An employee may not use leave donated by other employees for any
2 continuous period that, when combined with all other forms of paid leave, exceeds 16
3 months.

4 (3) An employee who receives leave under subsection (a)(2) of this section
5 may only use the donated leave for an illness or disability of the employee due to the
6 medical condition that existed at the time of the donation.

7 (c) (1) An employee may not, through intimidation, threat, or coercion,
8 interfere with any right that another employee may have with respect to contributing,
9 receiving, or using leave under this section, including any promise to confer or conferring
10 any appointment, promotion, compensation, or other benefit, or effecting or threatening
11 to effect any reprisal, including the deprivation of appointment, promotion,
12 compensation, or other benefit.

13 (2) An employee who violates paragraph (1) of this subsection is subject to
14 disciplinary action, including the termination of State employment.

15 (d) Each principal department or other independent unit in the executive,
16 legislative, and judicial branches of State government with an independent personnel
17 system whose employees donate or receive leave under this section shall:

18 (1) keep a record of the employee leave donated; and

19 (2) at the end of each fiscal year, submit to the Secretary of Personnel a
20 report containing the following information:

21 (i) the number of employees who donated leave;

22 (ii) the kind of leave and number of hours donated by each employee;

23 (iii) the number of employees who received donated leave; and

24 (iv) the number of hours of donated leave used by each employee to
25 whom leave was donated.]

26 9-601.

27 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
28 INDICATED.

29 (B) "LEAVE BANK" MEANS THE STATE EMPLOYEES' LEAVE BANK.

30 (C) "LEAVE DONATION PROGRAM" MEANS THE EMPLOYEE-TO-EMPLOYEE
31 LEAVE DONATION PROGRAM.

32 9-602.

33 (A) (1) THERE IS A STATE EMPLOYEES' LEAVE BANK.

34 (2) THERE IS AN EMPLOYEE-TO-EMPLOYEE LEAVE DONATION
35 PROGRAM.

36 (B) THE SECRETARY SHALL ADMINISTER THE STATE EMPLOYEES' LEAVE
37 BANK AND THE EMPLOYEE-TO-EMPLOYEE LEAVE DONATION PROGRAM.

112

1 (C) THE SECRETARY SHALL ADOPT REGULATIONS THAT:

2 (1) GOVERN DONATIONS TO AND GRANTS OF LEAVE FROM THE LEAVE
3 BANK;

4 (2) GOVERN DONATIONS AND RECEIPTS OF LEAVE UNDER THE LEAVE
5 DONATION PROGRAM; AND

6 (3) PROVIDE FOR PARTICIPATION IN THE LEAVE BANK AND THE LEAVE
7 DONATION PROGRAM BY EMPLOYEES IN UNITS OF STATE GOVERNMENT WITH
8 INDEPENDENT PERSONNEL SYSTEMS THAT ELECT TO PARTICIPATE IN THE STATE
9 EMPLOYEES' LEAVE BANK IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION;

10 (D) EACH EMPLOYEE, EXCEPT A TEMPORARY EMPLOYEE, IN THE STATE
11 PERSONNEL MANAGEMENT SYSTEM MAY VOLUNTARILY PARTICIPATE IN THE
12 LEAVE BANK AND THE LEAVE DONATION PROGRAM IN ACCORDANCE WITH THIS
13 SUBTITLE.

14 (E) (1) A PRINCIPAL UNIT IN THE EXECUTIVE, JUDICIAL, OR LEGISLATIVE
15 BRANCHES OF STATE GOVERNMENT WITH AN INDEPENDENT PERSONNEL SYSTEM
16 MAY ALLOW ITS EMPLOYEES TO VOLUNTARILY PARTICIPATE IN THE LEAVE BANK
17 AND THE LEAVE DONATION PROGRAM IN ACCORDANCE WITH THIS SUBTITLE.

18 (2) A UNIT THAT ELECTS TO PARTICIPATE UNDER THIS SUBSECTION
19 SHALL:

20 (I) KEEP A RECORD OF THE EMPLOYEE LEAVE DONATED; AND

21 (II) AT THE END OF EACH FISCAL YEAR, SUBMIT TO THE
22 SECRETARY OF PERSONNEL A REPORT CONTAINING THE FOLLOWING
23 INFORMATION:

24 1. THE NUMBER OF EMPLOYEES WHO DONATED LEAVE;

25 2. THE KIND OF LEAVE AND NUMBER OF HOURS DONATED
26 BY EACH EMPLOYEE;

27 3. THE NUMBER OF EMPLOYEES WHO RECEIVED DONATED
28 LEAVE; AND

29 4. THE NUMBER OF HOURS OF DONATED LEAVE USED BY
30 EACH EMPLOYEE TO WHOM LEAVE WAS DONATED.

31 9-603.

32 (A) THE LEAVE BANK CONSISTS OF DONATED LEAVE AND FORFEITED
33 ANNUAL, PERSONAL, AND SICK LEAVE.

34 (B) AN EMPLOYEE IS A MEMBER OF THE LEAVE BANK FOR 2 YEARS FROM
35 THE DATE ON WHICH THE EMPLOYEE:

36 (1) VOLUNTARILY DONATES AT LEAST 8 HOURS OF ANNUAL,
37 PERSONAL, OR SICK LEAVE TO THE LEAVE BANK IN ACCORDANCE WITH THIS TITLE;
38 OR

113

1 (2) HAS AT LEAST 8 HOURS OF ANNUAL OR PERSONAL LEAVE PLACED
2 IN THE LEAVE BANK AS A RESULT OF A FORFEITURE UNDER § 9-304(A) OR § 9-403(A)
3 OF THIS TITLE.

4 (C) THE SECRETARY MAY GRANT LEAVE FROM THE STATE EMPLOYEES'
5 LEAVE BANK TO AN EMPLOYEE WHO:

6 (1) HAS EXHAUSTED ALL FORMS OF ANNUAL, PERSONAL, SICK, AND
7 COMPENSATORY LEAVE BECAUSE OF A SERIOUS AND PROLONGED MEDICAL
8 CONDITION;

9 (2) PROVIDES A CERTIFICATE OF ILLNESS OR DISABILITY THAT MEETS
10 THE REQUIREMENTS OF § 9-504 OR § 9-505 OF THIS TITLE; AND

11 (3) (I) IS A MEMBER OF THE STATE EMPLOYEES' LEAVE BANK; OR

12 (II) IS GRANTED AN EXEMPTION BY THE SECRETARY FROM THE
13 MEMBERSHIP REQUIREMENT FOR GOOD CAUSE.

14 9-604.

15 (A) (1) SUBJECT TO THE LIMITATIONS IN THIS TITLE OR IN ANY OTHER
16 LAW, AN EMPLOYEE MAY VOLUNTARILY DONATE UNUSED ANNUAL, SICK, OR
17 PERSONAL LEAVE TO ANOTHER EMPLOYEE WHO HAS EXHAUSTED ALL AVAILABLE
18 ANNUAL, PERSONAL, SICK, AND COMPENSATORY LEAVE BECAUSE OF A SERIOUS
19 AND PROLONGED MEDICAL CONDITION.

20 (2) THE EMPLOYEE WHO DONATES LEAVE SHALL DESIGNATE THE
21 RECIPIENT OF THE LEAVE.

22 (B) AN EMPLOYEE WHO RECEIVES LEAVE THROUGH THE LEAVE DONATION
23 PROGRAM MAY ONLY USE THE LEAVE FOR AN ILLNESS OR DISABILITY OF THE
24 EMPLOYEE DUE TO THE MEDICAL CONDITION THAT EXISTED AT THE TIME OF THE
25 DONATION.

26 9-605.

27 AN EMPLOYEE MAY NOT:

28 (1) RECEIVE MORE THAN A TOTAL OF 2,080 HOURS OF LEAVE FROM THE
29 LEAVE BANK AND THE LEAVE DONATION PROGRAM; OR

30 (2) USE LEAVE FROM THE LEAVE BANK, THE LEAVE DONATION
31 PROGRAM, OR BOTH FOR ANY CONTINUOUS PERIOD THAT, WHEN COMBINED WITH
32 ALL OTHER FORMS OF PAID LEAVE, EXCEEDS 16 MONTHS.

33 9-606.

34 AN EMPLOYEE WHO IS DENIED USE OF LEAVE FROM THE LEAVE BANK OR
35 LEAVE DONATION PROGRAM MAY APPEAL THE DENIAL IN ACCORDANCE WITH
36 REGULATIONS ADOPTED BY THE SECRETARY.

114

1 9-607.

2 (A) AN EMPLOYEE MAY NOT, THROUGH INTIMIDATION, THREAT, OR
3 COERCION, INTERFERE WITH ANY RIGHT THAT ANOTHER EMPLOYEE MAY HAVE
4 WITH RESPECT TO CONTRIBUTING, RECEIVING, OR USING LEAVE UNDER THIS
5 SUBTITLE, INCLUDING ANY PROMISE TO CONFER OR CONFERRING ANY
6 APPOINTMENT, PROMOTION, COMPENSATION, OR OTHER BENEFIT, OR EFFECTING
7 OR THREATENING TO EFFECT ANY REPRISAL, INCLUDING THE DEPRIVATION OF
8 APPOINTMENT, PROMOTION, COMPENSATION, OR OTHER BENEFIT.

9 (B) AN EMPLOYEE WHO VIOLATES SUBSECTION (A) OF THIS SECTION IS
10 SUBJECT TO DISCIPLINARY ACTION, INCLUDING THE TERMINATION OF STATE
11 EMPLOYMENT.

12 Subtitle [6.] 7. Work-Related Accident Leave.

13 [7-601.

14 This subtitle applies to all classified service and unclassified service employees in
15 the State Personnel Management System.]

16 [7-602.] 9-701.

17 (a) Each employee [subject to this subtitle] IN THE STATE PERSONNEL
18 MANAGEMENT SYSTEM, EXCEPT A TEMPORARY EMPLOYEE, is entitled to
19 work-related accident leave with sick pay if:

20 (1) the employee sustains a disabling personal injury [in performance of the
21 employee's job duties] THAT WOULD BE COMPENSABLE UNDER THE MARYLAND
22 WORKERS' COMPENSATION ACT; AND

23 [(2) the injury would be compensable under the Maryland Workers'
24 Compensation Act; and]

25 [(3)] (2) a physician examines the employee and certifies that the employee
26 is disabled because of the injury.

27 (b) The appointing authority of an employee entitled to work-related accident
28 leave shall notify the employee of the employee's right to file a claim with the Workers'
29 Compensation Commission.

30 [7-603.] 9-702.

31 (a) An employee may use work-related accident leave:

32 (1) beginning on the first day of disability; and

33 (2) continuing until the earlier of:

34 (i) the day that the employee is able to return to work, as certified by
35 a physician; or

36 (ii) 6 months from the day of disability.

115

1 (b) After an employee returns to work, work-related accident leave may be
2 granted for continuing treatment as certified by a physician selected by the appointing
3 authority [until the earlier of:

4 (1) the day that the employee is able to return to work, as certified by a
5 physician; or

6 (2)] UP TO 6 months from the day of the original disability.

7 (c) Work-related accident leave may be granted for up to an additional 6 months
8 if:

9 (1) the employee is certified by a physician selected by the appointing
10 authority; and

11 (2) no decision has been reached by the Workers' Compensation
12 Commission on the employee's claim.

13 [7-604.] 9-703.

14 The appointing authority may require an employee on work-related accident leave
15 to be examined periodically by a physician selected by the appointing authority to
16 determine the employee's progress and the length of time necessary for the employee's
17 recovery.

18 [7-605.] 9-704.

19 (a) Payment to an employee for work-related accident leave taken under this
20 subtitle shall be based on two-thirds of the employee's regular pay.

21 (b) Payment for work-related accident leave taken under this subtitle constitutes
22 a separate benefit on account of accidental disability and is not a continuation of salary.

23 (c) Notwithstanding the reduced rate that an employee is paid while using
24 work-related accident leave, the employee:

25 (1) continues seniority and leave accruals based on the employee's regular
26 pay; and

27 (2) does not lose health care benefits with the subsidy allowed in [Title 8,
28 Subtitle 1] TITLE 2, SUBTITLE 6 of this article solely because of use of the work-related
29 accident leave.

30 (d) An employee may not receive temporary total disability benefits under the
31 Maryland Workers' Compensation Act while the employee is receiving payment under
32 this subtitle.

33 [7-606.] 9-705.

34 (a) If someone other than the employee or [this] THE State causes an injury for
35 which work-related accident leave is taken under this subtitle, [this] THE State, as
36 employer, after giving written notice to the employee, is subrogated to the rights of the
37 employee to the extent of any compensation paid or owed under this subtitle.

116

1 (b) [If, within 90 days after the employee receives notice from this State under
2 subsection (a) of this section, the employee fails to enforce the claim against the person
3 causing the injury or fails to give written notice to this State of an intent to do so, this
4 State, in its own name and for its own benefit, may bring an action or join in an action.]
5 THE STATE, IN ITS OWN NAME AND FOR ITS OWN BENEFIT, MAY BRING AN ACTION
6 OR JOIN IN AN ACTION IF:

7 (1) WITHIN 90 DAYS AFTER THE EMPLOYEE RECEIVES NOTICE FROM
8 THE STATE UNDER SUBSECTION (A) OF THIS SECTION, THE EMPLOYEE FAILS TO:

9 (I) ENFORCE THE CLAIM AGAINST THE PERSON CAUSING THE
10 INJURY; OR

11 (II) GIVE WRITTEN NOTICE TO THE STATE OF AN INTENT TO DO
12 SO; OR

13 (2) WITHIN A REASONABLE TIME AFTER GIVING THE STATE NOTICE OF
14 AN INTENT TO ENFORCE THE CLAIM AGAINST THE PERSON CAUSING THE INJURY,
15 THE EMPLOYEE FAILS TO TAKE ACTION TO ENFORCE THE CLAIM.

16 (c) An action brought by [this] THE State under this section is not a bar to any
17 other claim related to the injury.

18 Subtitle [7.] 8. Religious Observances.

19 [7-701.] 9-801.

20 (a) Except as provided in subsection (b) of this section, this subtitle applies to:

21 (1) all employees, [including classified, unclassified, full-time, part-time,
22 permanent, temporary, and contractual employees] INCLUDING TEMPORARY
23 EMPLOYEES, of all units in the executive branch of State government, including any unit
24 with an independent personnel system; and

25 (2) all [classified service] employees of the District Court of Maryland
26 WHO ARE IN THE STATE PERSONNEL MANAGEMENT SYSTEM.

27 (b) This subtitle does not apply to employees of a unit that must provide a service
28 continuously on a 7-day-a-week basis.

29 [7-702.] 9-802.

30 The Secretary shall adopt regulations that provide for work schedules to allow an
31 employee whose religious beliefs require absence from work to perform optional,
32 compensatory work outside of the employee's regular work hours to offset the absence.

33 [7-703.] 9-803.

34 (a) If an employee who is entitled to overtime pay elects to perform compensatory
35 work under this section:

36 (1) for any workweek in which the employee works 40 hours or less, each
37 hour of compensatory work offsets 1 hour of absence for religious observance; and

117

1 (2) for any workweek in which the employee works more than 40 hours, each
2 hour of compensatory work over 40 hours offsets 1.5 hours of absence for religious
3 observance.

4 (b) If an employee who is exempt from overtime pay elects to perform
5 compensatory work under this section, each hour of compensatory work offsets 1 hour of
6 absence for religious observance.

7 [7-704.] 9-804.

8 A unit may adopt written policies that provide exceptions to this subtitle for the
9 efficient operation of the unit.

10 Subtitle [8.] 9. Compensatory Leave.

11 [7-801.] 9-901.

12 This subtitle applies to all [classified] SKILLED service and [unclassified]
13 PROFESSIONAL service employees in the State Personnel Management System.

14 [7-802.] 9-902.

15 (A) [Except for employees covered by a collective bargaining agreement or as
16 otherwise required by federal law, an employee subject to this subtitle] EACH
17 EMPLOYEE IN THE STATE PERSONNEL MANAGEMENT SYSTEM, EXCEPT A
18 TEMPORARY EMPLOYEE, is entitled, on termination of State employment, to
19 compensation for no more than 2 days of unused compensatory leave earned during the
20 calendar year in which the employee's State employment terminates.

21 (B) SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO EMPLOYEES
22 COVERED BY A COLLECTIVE BARGAINING AGREEMENT OR AS OTHERWISE
23 REQUIRED BY FEDERAL LAW.

24 Subtitle 10. Family and [Seasonal] MEDICAL Leave.

25 [7-1001].

26 This subtitle applies to all classified service and unclassified service employees of
27 any unit in the executive branch of State government.]

28 [7-1002].

29 (a) On request, an employee subject to this subtitle who is not on probation may
30 be granted family leave or seasonal leave, subject to the requirements of this subtitle.

31 (b) Family and seasonal leave shall be without pay.

32 (c) An employee may not be required to take family or seasonal leave.

33 (d) Family leave may be used only as needed to care for:

34 (1) a newly-born child of the employee;

35 (2) a child placed with the employee for adoption;

118

1 (3) a foster child placed with the employee;

2 (4) a seriously ill or disabled child, spouse, parent, or legal dependent of the
3 employee; or

4 (5) a school-age child of the employee under age 14 during school
5 vacation.]

6 [7-1003.

7 (a) The Secretary shall adopt regulations governing family leave and seasonal
8 leave.

9 (b) The regulations adopted by the Secretary:

10 (1) shall provide for the timing and granting of requests for family and
11 seasonal leave;

12 (2) shall limit the combined family and seasonal leave for an employee to a
13 maximum of 12 weeks in any 12-month period; and

14 (3) may require an employee to have exhausted other available leave before
15 taking family or seasonal leave.]

16 [7-1004.

17 (a) An employee may use family leave or seasonal leave only after obtaining
18 approval from the employee's appointing authority.

19 (b) The appointing authority shall determine, on a case-by-case basis, the
20 practicability of the requested leave based on:

21 (1) the anticipated workload of the employee's unit for the period of the
22 leave; and

23 (2) any potential disruption to the efficient operation of that unit.]

24 [7-1005.

25 (a) The appointing authority shall assure that the employee's position is available
26 to the employee after the employee has used approved family leave or seasonal leave.

27 (b) The period of family or seasonal leave may not be counted as time in State
28 service for retirement or any other purpose.

29 (c) (1) Except as provided in paragraph (2) of this subsection, all employee
30 benefits are suspended during a period of family or seasonal leave.

31 (2) An employee may continue health care benefits during a period of
32 family leave with the subsidy allowed in Title 8, Subtitle 1 of this article.

33 (d) Any health insurance subsidy allowed under subsection (c) of this section may
34 be recovered from the employee if:

35 (1) the employee fails to return from family leave after the period of leave to
36 which the employee is entitled has expired; and

119

1 (2) the employee fails to return to work for a reason other than:

2 (i) the continuation, recurrence, or onset of a serious health condition
3 of the employee or the employee's family member that entitles the employee to family
4 leave; or

5 (ii) other circumstances beyond the control of the employee.]

6 9-1001.

7 (A) THE SECRETARY SHALL ADOPT REGULATIONS, GUIDELINES, OR POLICIES
8 IMPLEMENTING THE FEDERAL FAMILY AND MEDICAL LEAVE ACT OF 1993.

9 (B) THE REGULATIONS ADOPTED BY THE SECRETARY SHALL REQUIRE AN
10 EMPLOYEE TO HAVE EXHAUSTED OTHER AVAILABLE LEAVE BEFORE TAKING
11 FAMILY AND MEDICAL LEAVE.

12 Subtitle 11. Other Leaves.

13 [7-1101.

14 This subtitle applies to all classified service and unclassified service employees in
15 the State Personnel Management System.]

16 9-1101.

17 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THIS SUBTITLE APPLIES
18 TO ALL EMPLOYEES IN THE STATE PERSONNEL MANAGEMENT SYSTEM, EXCEPT
19 TEMPORARY EMPLOYEES.

20 [7-901.] 9-1102.

21 (A) This [subtitle] SECTION applies to all employees, [including classified,
22 unclassified, full-time, part-time, permanent, and temporary employees,] INCLUDING
23 TEMPORARY EMPLOYEES, of all units in the executive, judicial, and legislative branches
24 of State government, including any unit with an independent personnel system.

25 [7-902.] (B) On request, an employee subject to this [subtitle] SECTION may be entitled
26 to disaster service leave with pay if:

27 (1) the employee is certified by the American Red Cross as a disaster
28 service volunteer; and

29 (2) the American Red Cross requests the services of the employee during a
30 disaster that:

31 (i) occurs in [this] THE State or a state that is contiguous to [this]
32 THE State; and

33 (ii) is designated at Level II or above in the regulations and
34 procedures of the National Office of the American Red Cross.

35 [7-903.] (C) An employee may use up to 15 days of disaster service leave in any
36 12-month period only after obtaining approval from the employee's appointing authority.

37 [7-904.] (D) For purposes of workers' compensation and the Maryland Tort Claims Act,

120

1 while an employee is using disaster service leave, the employee is deemed not to be a
2 State employee.

3 [7-1102.] 9-1103.

4 (a) [An employee subject to this subtitle, who has a positive tuberculin skin test
5 result on a test taken by the employee at the direction of the employee's appointing
6 authority, is entitled to appropriate medical care to be provided by the appointing
7 authority and to leave with pay in accordance with subsection (b) of this section when the
8 Secretary of Health and Mental Hygiene has determined that, for public health reasons,
9 the employee should not work for a given period of time.] AN EMPLOYEE IS ENTITLED
10 TO RECEIVE APPROPRIATE HEALTH CARE TO BE PROVIDED BY THE APPOINTING
11 AUTHORITY AND LEAVE WITH PAY IN ACCORDANCE WITH SUBSECTION (B) OF THIS
12 SECTION, IF:

13 (1) THE EMPLOYEE HAS A POSITIVE TUBERCULIN SKIN TEST RESULT ON
14 A TEST TAKEN BY THE EMPLOYEE AT THE DIRECTION OF THE EMPLOYEE'S
15 APPOINTING AUTHORITY; AND

16 (2) THE SECRETARY OF HEALTH AND MENTAL HYGIENE DETERMINES
17 THAT, FOR PUBLIC HEALTH REASONS, THE EMPLOYEE SHOULD NOT WORK FOR A
18 GIVEN PERIOD OF TIME.

19 (b) Leave granted to an employee under this subsection for public health reasons
20 may not exceed 90 days. If it is determined that a longer absence is medically required,
21 the employee may use other forms of leave to the extent authorized under this title.

22 [7-1103.] 9-1104.

23 The Secretary may provide by regulation for leave with pay:

24 (1) for jury service;

25 (2) to attend employee organization events approved for this purpose by the
26 Secretary;

27 (3) for military training in a reserve unit of the Armed Forces or in the
28 organized militia;

29 (4) unless the employee is a party to the action or a paid witness, to appear
30 in compliance with a subpoena:

31 (i) in court;

32 (ii) before a grand jury;

33 (iii) before an administrative unit; or

34 (iv) for a deposition; and

35 (5) any other paid leave the Secretary deems necessary.

121

1 [7-1104.]9-1105.

2 The Secretary may provide by regulation for leaves of absence without pay for up to
3 2 years.

4 SUBTITLE 12. ATTENDANCE INCENTIVE IN STATE PERSONNEL MANAGEMENT
5 SYSTEM.

6 9-1201.

7 THIS SUBTITLE APPLIES TO ALL EMPLOYEES IN THE STATE PERSONNEL
8 MANAGEMENT SYSTEM EXCEPT TEMPORARY EMPLOYEES.

9 9-1202.

10 (A) AT THE DISCRETION OF THE APPOINTING AUTHORITY, AN ELIGIBLE
11 EMPLOYEE MAY RECEIVE:

12 (1) A CASH AWARD THAT EQUALS UP TO 3 DAYS OF UNUSED PERSONAL
13 LEAVE; OR

14 (2) THE OPTION OF CONVERTING UP TO 3 DAYS OF UNUSED PERSONAL
15 LEAVE TO ANNUAL LEAVE DAYS OR SICK LEAVE DAYS.

16 (B) THE CASH AWARD OR AMOUNT OF THE CONVERSION FOR A PART-TIME
17 EMPLOYEE WILL BE PRORATED BASED ON THE PERCENTAGE OF EMPLOYMENT.

18 9-1203.

19 TO BE ELIGIBLE TO RECEIVE AN ATTENDANCE INCENTIVE UNDER THIS
20 SUBTITLE FOR A CALENDAR YEAR, AN EMPLOYEE SHALL:

21 (1) WORK DURING THE FULL CALENDAR YEAR;

22 (2) HAVE UNUSED PERSONAL LEAVE DAYS REMAINING AT THE END OF
23 THE YEAR; AND

24 (3) MEET THE ATTENDANCE CRITERIA IN THIS SUBTITLE.

25 9-1204.

26 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN
27 EMPLOYEE MEETS THE ATTENDANCE CRITERIA FOR AN AWARD UNDER THIS
28 SUBTITLE, IF, DURING THAT YEAR, THE EMPLOYEE:

29 (1) ONLY USES ANNUAL OR COMPENSATORY LEAVE THAT:

30 (I) IS REQUESTED AND APPROVED BEFORE THE END OF THE
31 EMPLOYEE'S PREVIOUS SHIFT;

32 (II) IS TAKEN UNDER OFFICIALLY DECLARED LIBERAL LEAVE; OR

33 (III) IS APPROVED AFTER THE EMPLOYEE HAS REPORTED TO
34 WORK;

35 (2) DOES NOT USE ANY:

122

1 (I) SICK LEAVE, EXCEPT FOR A DEATH IN THE FAMILY;

2 (II) WORK-RELATED ACCIDENT LEAVE;

3 (III) LEAVE WITHOUT PAY; AND

4 (3) DOES NOT RECEIVE A DISCIPLINARY SUSPENSION OR DISCIPLINARY
5 LOSS OF LEAVE.

6 (B) AN EMPLOYEE IS NOT PREVENTED FROM MEETING THE ATTENDANCE
7 REQUIREMENTS UNDER SUBSECTION (A) OF THIS SECTION BECAUSE THE
8 EMPLOYEE USES:

9 (1) LEAVE ATTRIBUTED TO A DISABILITY AS DEFINED IN THE
10 AMERICANS WITH DISABILITIES ACT OF 1990, 42 U.S.C. § 12101 ET SEQ.; OR

11 (2) LEAVE QUALIFYING UNDER THE FAMILY AND MEDICAL LEAVE ACT
12 OF 1993, 29 U.S.C. § 2601 ET SEQ.

13 9-1205.

14 AN AWARD MADE UNDER THIS SUBTITLE IS IN ADDITION TO THE REGULAR
15 PAY OF THE RECIPIENT.

16 9-1206.

17 A CASH AWARD UNDER THIS SUBTITLE SHALL BE PAID:

18 (1) FROM THE FUNDS OF ANY PRINCIPAL UNIT THAT EMPLOYS THE
19 EMPLOYEE OR THAT BENEFITS FROM THE INNOVATIVE IDEA OR SERVICE; OR

20 (2) AS PROVIDED IN THE STATE BUDGET.

21 9-1207.

22 (A) THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THIS
23 SUBTITLE.

24 (B) (1) WITHIN 90 DAYS AFTER THE END OF EACH FISCAL YEAR, THE HEAD
25 OF EACH PRINCIPAL UNIT SHALL SUBMIT TO THE SECRETARY A REPORT ON ALL
26 AWARDS MADE UNDER THIS SUBTITLE.

27 (2) THE REPORT SHALL BE MADE ON THE FORM AND IN THE MANNER
28 THAT THE SECRETARY REQUIRES.

29 TITLE 10. EMPLOYEE TRAINING PROGRAM; AWARDS AND BENEFITS IN EXECUTIVE
30 BRANCH.

31 SUBTITLE 1. EMPLOYEE TRAINING PROGRAM.

32 10-101.

33 EXCEPT AS OTHERWISE PROVIDED, THIS TITLE APPLIES TO ALL EMPLOYEES IN
34 THE EXECUTIVE BRANCH.

123

1 [8-303.] 10-102.

2 [(a)] There is an employee training program in the Department.

3 [(b)] 10-103.

4 The purposes of the training program are to:

5 (1) develop the capabilities of employees;

6 (2) train employees to perform their duties with maximum efficiency; and

7 (3) attract individuals to State employment.

8 [(c)] 10-104.

9 Except as otherwise provided by law, staff supervision of all development and
10 training under the program is the responsibility of the Secretary, to be carried out in
11 accordance with the policies and regulations adopted by the Secretary.

12 [(d)] 10-105.

13 Public funds may be used to supplement and subsidize training and development
14 only when the Secretary certifies that the expenditures are in accordance with State
15 training policies and regulations.

16 Subtitle 2. Incentive Awards IN THE EXECUTIVE BRANCH.

17 [8-201.] 10-201.

18 In this subtitle, "principal unit" means a principal [department or other
19 independent] unit in the executive branch of State government, including any unit with
20 independent pay-setting authority.

21 [8-202.] 10-202.

22 (a) Except as provided in subsection (b) of this section, this subtitle applies to all
23 employees[, including classified, unclassified, full-time, part-time, permanent,
24 temporary, and contractual employees,] of all units in the executive branch of State
25 government, including [any] A unit with independent pay-setting authority.

26 (b) This subtitle does not apply to any employee who holds a position that is
27 included in the Executive Pay Plan.

28 [8-203.] 10-203.

29 (a) In this section, "innovative idea" means an invention, innovative suggestion, or
30 any other innovative idea.

31 (b) There is an Innovative Idea Awards Program for employees.

32 (c) (1) An innovative idea award may be awarded for an innovative idea that, if
33 implemented, would:

34 (i) increase revenue to [this] THE State;

124

1 (ii) save money for [this] THE State;

2 (iii) improve the quality of services delivered to the public; or

3 (iv) otherwise significantly benefit the State.

4 (2) Except under exceptional circumstances, an award may not be made for
5 an innovative idea that is under active study or continual review by a unit of State
6 government.

7 (d) (1) The head of each principal unit shall establish a review committee to
8 evaluate and recommend awards for innovative ideas by employees of that unit.

9 (2) To the extent possible, within 60 days after an innovative idea is
10 submitted to the review committee, the head of the unit shall decide whether to give an
11 innovative idea award.

12 (e) For an innovative idea, the head of a principal unit may give an employee of
13 that unit a cash award of not more than:

14 (1) \$1,000 for an innovative idea with a reasonably ascertainable monetary
15 savings or gain to the State; or

16 (2) \$300 for any other innovative idea.

17 (f) (1) There is a Governor's Award Panel.

18 (2) The Governor's Award Panel consists of five members appointed by the
19 Governor, at least three of whom shall be public members who serve without
20 compensation.

21 (g) (1) The head of a principal unit shall submit to the Governor's Award Panel
22 each innovative idea for which an award is made under subsection (e) of this section, with
23 a recommendation for any additional award by the Governor.

24 (2) The Governor's Award Panel shall:

25 (i) review each innovative idea submitted to it;

26 (ii) at least once a year, make a recommendation to the Governor
27 about additional awards for the innovative ideas; and

28 (iii) recommend to the Governor either monetary or nonmonetary
29 awards for the employees' innovative ideas.

30 (h) (1) The Governor may make an additional cash award for an innovative
31 idea.

32 (2) The cash award may not exceed \$20,000.

33 (3) The Governor may grant paid administrative leave, not exceeding 20
34 workdays.

35 (i) The State's use of an innovative idea:

125

1 (1) does not entitle the employee submitting the innovative idea to an award
2 under this section; and

3 (2) does not give rise to any claim by the employee or the heirs or assigns of
4 the employee.

5 [8-204.] 10-204.

6 (a) There is an Incentive Performance Awards Program for employees.

7 (b) (1) An incentive performance award for extraordinary service maybe
8 awarded for extraordinary performance in the public interest in connection with an
9 employee's State employment.

10 (2) For extraordinary service, the head of a principal unit maymake the
11 following awards to an employee or members of a group of employees in that unit:

12 (i) cash of not more than \$300;

13 (ii) a gift of not more than \$300 in value;

14 (iii) paid administrative leave of not more than 3 days; or

15 (iv) any combination of cash, gift, and leave of not more than \$300 in
16 value.

17 (3) An employee may only receive one incentive performance award under
18 this subsection in any 12-month period.

19 (c) (1) An incentive performance award for outstanding service in connection
20 with State employment over a sustained period or a special State project may be awarded
21 for:

22 (i) exceptional performance that exceeds the knowledge, skill, or
23 ability required by the employee's position; or

24 (ii) exceptionally meritorious acts or services in the public interest.

25 (2) For outstanding service, the head of a principal unit may make a cash
26 award of not more than \$3,000 to an employee of that unit.

27 (3) An employee may only receive one incentive performance award under
28 this subsection in any 24-month period.

29 (d) (1) Before making an award, the head of a principal unit shall:

30 (i) establish criteria for administering the Incentive Performance
31 Awards Program, including standards of eligibility; and

32 (ii) ensure that the employees in the unit have copies of the criteria.

33 (2) The head of the unit may amend the criteria at any time, but an
34 amendment is not effective until the employees in the unit have been sent a copy of the
35 amendment.

126

1 (e) The head of a principal unit may delegate to any subordinate supervising unit
2 head the authority to make awards under this section.

3 [8-205.] 10-205.

4 An award made under this subtitle is in addition to the regular pay of the recipient.

5 [8-206.] 10-206.

6 A determination under this subtitle about any award or proposed award is not
7 subject to employee grievance procedures.

8 [8-207.] 10-207.

9 A cash award and expenses related to other awards under this subtitle shall be paid:

10 (1) from increased revenue or monetary savings attributable to the
11 innovative idea or service;

12 (2) from the funds of any principal unit that employs the employee or that
13 benefits from the innovative idea or service; or

14 (3) as provided in the State budget.

15 [8-208.] 10-208.

16 (a) (1) The Secretary shall adopt regulations to carry out this subtitle.

17 (2) Regulations to implement the Innovative Idea Awards Program shall be
18 made with the concurrence of the Governor's Award Panel.

19 (b) (1) Within 90 days after the end of each fiscal year, the head of each
20 principal unit shall submit to the Secretary a report on all awards made under this
21 subtitle.

22 (2) The report shall be made on the form and in the manner that the
23 Secretary requires.

24 SUBTITLE 3. LENGTH OF SERVICE AWARDS IN EXECUTIVE BRANCH.

25 10-301.

26 THIS SUBTITLE DOES NOT APPLY TO TEMPORARY EMPLOYEES.

27 [8-305.] 10-302.

28 To recognize length of State service, the Secretary shall give to each employee
29 subject to this subtitle an appropriate emblem and certificate for:

30 (1) the first 10 years of service; and

31 (2) each additional 5 years of service.

127

1 Subtitle [3.] 4. Miscellaneous Benefits IN EXECUTIVE BRANCH.

2 [8-301.] 10-401.

3 (a) Except as provided in subsection (b) of this section, this subtitle applies to all
4 employees[, including classified, unclassified, full-time, part-time, permanent,
5 temporary, and contractual employees,] of all units in the executive branch of State
6 government.

7 (b) This subtitle does not apply to a unit with an independent personnel system.

8 [8-304.] 10-402.

9 (a) [In this section, "employee" means any permanent full-time or part-time
10 employee for whom a position is provided in the State budget.] THIS SECTION DOES
11 NOT APPLY TO A TEMPORARY EMPLOYEE.

12 (b) (1) When a principal [department or other independent] unit plans the
13 closure of a facility where 50 or more [classified service or unclassified service]
14 employees regularly work, that [department or] unit shall give the employees of that
15 facility notice of the planned closure of the facility.

16 (2) Except as otherwise provided in this subsection, the notices shall be given
17 at least 6 months before closing a facility.

18 (3) In any year in which the Governor fails to include sufficient funds in the
19 annual budget to operate a facility, thereby precipitating the closure of the facility, the
20 notice shall be given no later than 30 days following the submission of the annual budget
21 bill to the General Assembly.

22 (4) Whenever the General Assembly in any year fails to appropriate
23 sufficient funds in the annual budget to operate a facility, thereby precipitating the
24 closure of the facility, the notice shall be given no later than 30 days following the close of
25 that session of the General Assembly.

26 (c) If requested by an employee who is to be laid off, immediately following the
27 notice, the department or other independent unit that plans the closure shall:

28 (1) begin to provide intensive job counseling and training referral for the
29 affected employees;

30 (2) make efforts to relocate or transfer the affected employees to other
31 departmental positions in the State; and

32 (3) notify the Department of Personnel and the Department of [Business
33 and Economic Development] LABOR, LICENSING, AND REGULATION of any employees
34 who are adversely affected.

35 (d) The Department of Personnel shall:

36 (1) develop a list of State classifications with their comparable
37 classifications, if any; and

128

1 (2) with the assistance of the Department of [Business and Economic
2 Development] LABOR, LICENSING, AND REGULATION, make efforts to relocate the
3 affected State employees to vacant State positions.

4 (e) The Department of [Business and Economic Development] LABOR,
5 LICENSING, AND REGULATION shall develop a program to assist adversely affected State
6 employees by providing retraining and other appropriate employment and training
7 services.

8 (f) The Secretary [of Personnel] shall adopt rules and regulations to implement
9 this section.

10 [8-302.] 10-403.

11 (a) (1) Subject to paragraph (2) of this subsection, an employee subject to this
12 subtitle is entitled to reimbursement for the loss of any wearing apparel, jewelry,
13 eyeglasses, or prosthetic device damaged or destroyed as a result of an intentional act by
14 a client, patient, prisoner, or other individual who is in the care or custody of [this] THE
15 State.

16 (2) Reimbursement is allowed under this section only if:

17 (i) the loss occurs while the employee is engaged in the performance
18 of job duties;

19 (ii) the item is on the person of the employee when it is damaged or
20 destroyed; and

21 (iii) the employee gives a written report of the estimated loss to the
22 employee's immediate supervisor before the close of business on the employee's next
23 workday.

24 (b) To the extent that the employee is not reimbursed under any other State law,
25 the employee's unit shall reimburse the employee under this section for the amount of the
26 loss, but not more than \$100 for each item.

27 (c) Each reimbursement under this section is subject to reasonable verification of
28 the value of the item when the damage or destruction occurs.

29 TITLE 11. DISCIPLINARY ACTIONS, LAYOFFS, AND EMPLOYMENT TERMINATIONS IN
30 STATE PERSONNEL MANAGEMENT SYSTEM.

31 [Title 9. Separations.]

32 [Subtitle 1. Rejections During Probation.]

33 [9-101.]

34 This subtitle applies only to classified service employees.]

129

1 [9-102.

2 (a) Except as provided in § 9-103 of this subtitle, an appointing authority may
3 reject a classified service employee at any time during probation by notifying the
4 Secretary in writing of the rejection and the reason for it.

5 (b) When rejected, the employee is permanently separated from the position.]

6 [9-103.

7 (a) If a classified service employee is on probation as a result of a promotion, the
8 employee may be rejected only with the consent of the Secretary.

9 (b) The Secretary shall adopt regulations that provide for the right of appeal by
10 an employee who is rejected while on probation as a result of a promotion.]

11 [9-104.

12 If an individual has been rejected under this subtitle, the Secretary may return the
13 individual's name to a list of eligible candidates for future certification to another
14 position in the same class.]

15 [Subtitle 2. Removals for Cause After Probation.]

16 [9-201.

17 This subtitle applies only to classified service employees.]

18 [9-202.

19 An appointing authority may remove a classified service employee who has
20 completed probation only for cause.]

21 [9-203.

22 (a) The Secretary shall adopt regulations that prescribe what may constitute cause
23 for removal after probation of classified service employees.

24 (b) A classified service employee may not be removed for any cause prohibited by
25 § 3-405 of this article.]

26 [9-204.

27 An appointing authority may remove a classified service employee for cause only if:

28 (1) written charges for removal are submitted to the Secretary:

29 (i) by the appointing authority; or

30 (ii) subject to the approval of the appointing authority or the
31 Secretary, by any resident of this State;

32 (2) the employee is given a copy of the charges; and

33 (3) the employee is given an opportunity to be heard on appeal.]

130

1 [9-205.

2 (a) A classified service employee may appeal the charges for removal to the
3 Secretary within the time and in the manner required by regulation.

4 (b) If the employee fails to appeal within the time and in the manner required,
5 the removal is final.]

6 [9-206.

7 (a) If an employee appeals the charges for removal, the Secretary shall hold a
8 hearing to determine whether there is cause for removal.

9 (b) The hearing shall be held within 90 days after the charges for removal are
10 submitted to the Secretary.]

11 [9-207.

12 (a) The Secretary shall make findings and issue a written decision on a charge for
13 removal within 45 days after the later of:

14 (1) the conclusion of the hearing; or

15 (2) the day when all briefs or memoranda have been submitted.

16 (b) The Secretary shall provide a copy of the findings and decision to each party.

17 (c) The decision of the Secretary is final.]

18 [9-208.

19 The appointing authority immediately shall enforce a final decision issued under
20 this subtitle.]

21 [Subtitle 3. Suspensions Pending Disposition.]

22 [9-301.

23 This subtitle applies only to classified service employees.]

24 [9-302.

25 (a) An appointing authority may suspend a classified service employee without
26 pay pending disposition of a charge for removal.

27 (b) The appointing authority shall notify the employee in writing of the
28 suspension and the reasons for it.]

29 [9-303.

30 (a) Within 5 workdays after receiving a notice of suspension under this subtitle, a
31 classified service employee may request in writing that the Secretary conduct a
32 preliminary hearing to determine whether the employee may continue to work with pay
33 pending disposition of the charge.

131

1 (b) The Secretary shall hold the preliminary hearing within 5 workdays after the
2 Secretary receives the request.]

3 [9-304.

4 (a) A preliminary hearing under this subtitle is in addition to the hearing on the
5 merits required by Subtitle 2 of this title.

6 (b) The preliminary hearing is limited to the following issues:

7 (1) whether suspension without pay is necessary to protect the interests of
8 this State or of the classified service employee pending final disposition of the charge; and

9 (2) whether other employment and status alternatives for the employee
10 should be considered.]

11 [9-305.

12 At the preliminary hearing, the classified service employee may:

13 (1) rebut the reasons given for the suspension;

14 (2) assert mitigating circumstances; and

15 (3) offer alternatives to the suspension, including:

16 (i) a return to the employee's position with pay;

17 (ii) a transfer to another position with pay; or

18 (iii) a suspension with pay.]

19 [9-306.

20 (a) Within 5 workdays after the preliminary hearing, the Secretary shall issue a
21 decision in writing.

22 (b) The decision is conclusive only as to the issue of the suspension.]

23 [9-401.

24 (a) This subtitle applies to all classified service and unclassified service employees
25 in the State Personnel Management System.

26 (b) This subtitle does not apply to a suspension pending the disposition of a
27 charge for removal of a classified service employee.]

28 [9-402.

29 (a) An appointing authority may suspend an employee for disciplinary purposes.

30 (b) The appointing authority shall notify the employee in writing of the
31 suspension and the reasons for it.

32 (c) A suspension for disciplinary purposes under this subtitle shall be without
33 pay.]

132

1 [9-403.

2 (a) Except as otherwise provided in this section, a suspension for disciplinary
3 purposes:

4 (1) shall be served on consecutive days; and

5 (2) shall begin within 2 workdays from the close of the employee's next shift
6 after:

7 (i) the alleged infraction occurred; or

8 (ii) the appointing authority learned of the alleged infraction.

9 (b) For an employee exempt from the overtime provisions of the Federal Fair
10 Labor Standards Act, a suspension for disciplinary purposes:

11 (1) shall begin within 5 workdays from the close of the employee's next shift
12 after:

13 (i) the alleged infraction occurred; or

14 (ii) the appointing authority learned of the alleged infraction; and

15 (2) shall be for one or more of the employee's full workweeks.

16 (c) Saturdays, Sundays, legal holidays, and employee leave days do not count
17 when calculating the time periods required by subsections (a)(2) and (b)(1) of this
18 section.

19 (d) If an employee is subject to an Accident Review Board of the Department of
20 Transportation or of the Department of State Police:

21 (1) the Board has 20 calendar days to review the alleged infraction; and

22 (2) the suspension shall begin within 2 days from the close of the employee's
23 next shift after the Board concludes its review.

24 (e) The time limits in subsections (a) and (b) of this section do not apply to an
25 employee whose duties include mandatory appearances before a court, regulatory unit, or
26 administrative body, if the limits:

27 (1) would conflict with a scheduled appearance of the employee before a
28 court, regulatory unit, or administrative body; and

29 (2) would thereby hamper the effective administration of the State's
30 business.]

31 [9-404.

32 (a) The head of a principal department or other independent unit may authorize
33 a designee to receive appeals under this section.

34 (b) A suspended employee or a representative of the employee may submit a
35 written appeal of a disciplinary suspension:

133

1 (1) within 3 workdays after receipt of a notice of suspension, to the head of
2 the employee's principal department or other independent unit; or

3 (2) (i) except for an employee of the Department of Personnel, within 5
4 workdays after receipt of a notice of suspension, to the Secretary in accordance with
5 regulations adopted by the Secretary; or

6 (ii) for an employee of the Department of Personnel, within 5
7 workdays after receipt of a notice of suspension, to the Office of Administrative
8 Hearings.]

9 [9-405.

10 (a) The head of a principal department or other independent unit may authorize
11 a designee to hear appeals under this section.

12 (b) If an appeal is made to the head of a principal department or other
13 independent unit, the head of the department or unit shall:

14 (1) hold a hearing within 3 workdays after receiving the appeal; and

15 (2) issue a written decision within the time specified by the regulations of
16 the Secretary.

17 (c) If, as a result of management delay, the appeal is not heard and decided
18 within the times required by this section, the appointing authority shall reinstate the
19 suspended employee with full back pay.

20 (d) If an employee appeals under this section, the employee may not further
21 appeal the suspension except in accordance with step three of the grievance procedures
22 under § 10-209 of this article.]

23 [9-406.

24 (a) If an appeal is made to the Secretary, the Secretary shall issue a written
25 decision within 45 days after the later of:

26 (1) the conclusion of the hearing; or

27 (2) the day when all briefs or memoranda have been submitted.

28 (b) If the Secretary disapproves the suspension, the Secretary may order the
29 appointing authority to grant back pay to the employee.]

30 [9-407.

31 If an appeal by an employee of the Department is made to the Office of
32 Administrative Hearings, the administrative law judge shall issue the final decision on the
33 appeal.]

34 Subtitle [4.] 1. Disciplinary [Suspensions] ACTIONS.

35 11-101.

36 IN THIS SUBTITLE, "EMPLOYEE" INCLUDES A FORMER STATE EMPLOYEE.

134

1 11-102.

2 THIS SUBTITLE APPLIES TO ALL EMPLOYEES IN THE STATE PERSONNEL
3 MANAGEMENT SYSTEM EXCEPT TEMPORARY EMPLOYEES.

4 11-103.

5 (A) ALL DISCIPLINARY ACTIONS ALLOWED UNDER THIS SUBTITLE SHALL BE
6 BASED ON A PREPONDERANCE OF THE EVIDENCE. THE HEAD OF A PRINCIPAL UNIT,
7 THE SECRETARY, AND THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL APPLY
8 THAT STANDARD OF PROOF IN APPEALS UNDER THIS SUBTITLE.

9 (B) AFTER TAKING A DISCIPLINARY ACTION AGAINST AN EMPLOYEE FOR
10 MISCONDUCT, AN APPOINTING AUTHORITY MAY NOT IMPOSE ADDITIONAL
11 DISCIPLINARY ACTION AGAINST THAT EMPLOYEE FOR THE SAME OFFENSE EXCEPT
12 FOR A GOOD CAUSE THAT BECOMES KNOWN TO THE APPOINTING AUTHORITY
13 AFTER THE INITIAL DISCIPLINARY ACTION WAS TAKEN.

14 (C) THE SUSPENSION OF AN EMPLOYEE WHO IS EXEMPT FROM THE
15 OVERTIME PAY REQUIREMENTS OF THE FAIR LABOR STANDARDS ACT DONE SO
16 THAT THE EMPLOYEE'S OVERTIME EXEMPTION WILL NOT BE LOST.

17 (D) AN EMPLOYEE MAY CHOOSE ANY PERSON TO ASSIST OR REPRESENT THE
18 EMPLOYEE DURING AN APPEAL UNDER THIS SUBTITLE AND SHALL NOTIFY THE
19 EMPLOYER OF THAT CHOICE.

20 11-104.

21 AN APPOINTING AUTHORITY MAY TAKE THE FOLLOWING DISCIPLINARY
22 ACTIONS AGAINST ANY EMPLOYEE:

23 (1) GIVE THE EMPLOYEE A WRITTEN REPRIMAND;

24 (2) DIRECT THE FORFEITURE OF UP TO 15 WORK DAYS OF THE
25 EMPLOYEE'S ACCRUED ANNUAL LEAVE;

26 (3) DIRECT UP TO 3 WORK DAYS OF EMERGENCY SUSPENSION OF THE
27 EMPLOYEE, WITH PAY, TO IMMEDIATELY REMOVE THE EMPLOYEE FROM THE
28 WORKPLACE WHEN THE APPOINTING AUTHORITY BELIEVES THAT THE EMPLOYEE:

29 (I) POSES A THREAT TO SELF, ANOTHER INDIVIDUAL, OR STATE
30 PROPERTY; OR

31 (II) IS INCAPABLE OF PROPERLY PERFORMING THE EMPLOYEE'S
32 DUTIES BECAUSE OF EXTRAORDINARY CIRCUMSTANCES;

33 (4) SUSPEND THE EMPLOYEE WITHOUT PAY;

34 (5) DENY THE EMPLOYEE AN ANNUAL PAY INCREASE;

35 (6) DEMOTE THE EMPLOYEE TO A LOWER PAY GRADE; OR

36 (7) WITH PRIOR APPROVAL OF THE HEAD OF THE PRINCIPAL UNIT:

135

1 (I) TERMINATE THE EMPLOYEE'S EMPLOYMENT, WITHOUT
2 PREJUDICE; OR

3 (II) IF THE APPOINTING AUTHORITY FINDS THAT THE EMPLOYEE'S
4 ACTIONS ARE EGREGIOUS TO THE EXTENT THAT THE EMPLOYEE DOES NOT MERIT
5 EMPLOYMENT IN ANY CAPACITY WITH THE STATE, TERMINATE THE EMPLOYEE'S
6 EMPLOYMENT, WITH PREJUDICE.

7 11-105.

8 THE FOLLOWING ACTIONS ARE CAUSES FOR AUTOMATIC TERMINATION OF
9 EMPLOYMENT:

10 (1) INTENTIONAL CONDUCT, WITHOUT JUSTIFICATION, THAT:

11 (I) INJURES ANOTHER PERSON;

12 (II) CAUSES DAMAGE TO PROPERTY; OR

13 (III) THREATENS THE SAFETY OF THE WORKPLACE;

14 (2) THEFT OF STATE PROPERTY OF A VALUE GREATER THAN \$300;

15 (3) ILLEGAL SALE, USE, OR POSSESSION OF DRUGS ON THE JOB;

16 (4) CONVICTION OF A CONTROLLED DANGEROUS SUBSTANCE OFFENSE
17 BY AN EMPLOYEE IN A DESIGNATED SENSITIVE CLASSIFICATION;

18 (5) CONVICTION OF A FELONY;

19 (6) ACCEPTING FOR PERSONAL USE ANY FEE, GIFT, OR OTHER
20 VALUABLE THING IN CONNECTION WITH OR DURING THE COURSE OF STATE
21 EMPLOYMENT IF GIVEN TO THE EMPLOYEE BY ANY PERSON WITH THE HOPE OR
22 EXPECTATION OF RECEIVING A FAVOR OR BETTER TREATMENT THAN THAT
23 ACCORDED TO OTHER PERSONS;

24 (7) (I) VIOLATION OF THE FAIR ELECTION PRACTICES ACT; OR

25 (II) USING, THREATENING, OR ATTEMPTING TO USE POLITICAL
26 INFLUENCE OR THE INFLUENCE OF ANY STATE EMPLOYEE OR OFFICER IN
27 SECURING PROMOTION, TRANSFER, LEAVE OF ABSENCE, OR INCREASED PAY; AND

28 (8) WANTONLY CARELESS CONDUCT OR UNWARRANTABLE EXCESSIVE
29 FORCE IN THE TREATMENT OR CARE OF AN INDIVIDUAL WHO IS A CLIENT, PATIENT,
30 PRISONER, OR ANY OTHER INDIVIDUAL WHO IS IN THE CARE OR CUSTODY OF THIS
31 STATE.

32 11-106.

33 THE SECRETARY, BY REGULATION, SHALL ESTABLISH POLICIES AND
34 PROCEDURES FOR DISCIPLINARY ACTIONS RELATED TO EMPLOYEE PERFORMANCE,
35 THAT INCLUDE PROCEDURES FOR:

36 (1) PROVIDING COUNSELING TO AN EMPLOYEE WITH DEFICIENCIES IN
37 PERFORMANCE;

136

1 (2) ALLOWING AN EMPLOYEE THE OPPORTUNITY TO IMPROVE
2 DEFICIENCIES IN PERFORMANCE;

3 (3) IMPOSING DISCIPLINARY ACTIONS, IF WARRANTED; AND

4 (4) PROVIDING NOTICE TO AN EMPLOYEE OF ANY DISCIPLINARY
5 ACTION.

6 11-107.

7 (A) BEFORE TAKING ANY DISCIPLINARY ACTION RELATED TO EMPLOYEE
8 MISCONDUCT, AN APPOINTING AUTHORITY SHALL:

9 (1) INVESTIGATE THE ALLEGED MISCONDUCT;

10 (2) MEET WITH THE EMPLOYEE;

11 (3) CONSIDER ANY MITIGATING CIRCUMSTANCES;

12 (4) DETERMINE THE APPROPRIATE DISCIPLINARY ACTION, IF ANY, TO
13 BE IMPOSED; AND

14 (5) GIVE THE EMPLOYEE A WRITTEN NOTICE OF THE DISCIPLINARY
15 ACTION TO BE TAKEN.

16 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN
17 APPOINTING AUTHORITY MAY IMPOSE ANY DISCIPLINARY ACTION NO LATER THAN
18 30 DAYS AFTER THE APPOINTING AUTHORITY ACQUIRES KNOWLEDGE OF THE
19 MISCONDUCT FOR WHICH THE DISCIPLINARY ACTION IS IMPOSED.

20 (C) (1) AN APPOINTING AUTHORITY MAY SUSPEND AN EMPLOYEE
21 WITHOUT PAY NO LATER THAN 5 WORKDAYS FOLLOWING THE CLOSE OF THE
22 EMPLOYEE'S NEXT SHIFT AFTER THE APPOINTING AUTHORITY ACQUIRES
23 KNOWLEDGE OF THE MISCONDUCT FOR WHICH THE SUSPENSION IS IMPOSED.

24 (2) SATURDAYS, SUNDAYS, LEGAL HOLIDAYS, AND EMPLOYEE LEAVE
25 DAYS ARE EXCLUDED IN CALCULATING THE 5-WORKDAY PERIOD UNDER THIS
26 SUBSECTION.

27 11-108.

28 (A) (1) ISSUING A COUNSELING MEMORANDUM IS AN INSTRUCTIONAL
29 COMMUNICATION AND IS NOT A DISCIPLINARY ACTION WITHIN THE MEANING OF
30 THIS SUBTITLE.

31 (2) WITHIN 5 DAYS AFTER RECEIVING A COUNSELING MEMORANDUM,
32 AN EMPLOYEE MAY SUBMIT TO THE EMPLOYEE'S APPOINTING AUTHORITY A
33 WRITTEN RESPONSE TO THE MEMORANDUM. THE RESPONSE SHALL BE PLACED IN
34 THE EMPLOYEE'S FILE AND ATTACHED TO ANY RECORD OF THE MEMORANDUM.

35 (3) AN EMPLOYEE MAY NOT TAKE ANY OTHER ACTION IN RESPONSE TO
36 A COUNSELING MEMORANDUM.

137

1 (B) (1) PLACING AN EMPLOYEE ON LEAVE WITHOUT PAY WHEN THE
2 EMPLOYEE IS ABSENT WITHOUT APPROVAL IS NOT A DISCIPLINARY ACTION WITHIN
3 THE MEANING OF THIS SUBTITLE.

4 (2) AN EMPLOYEE WHO IS PLACED ON LEAVE WITHOUT PAY FOR AN
5 UNAPPROVED ABSENCE ALSO MAY BE SUBJECT TO DISCIPLINARY ACTION FOR THE
6 UNAPPROVED ABSENCE.

7 (C) (1) REQUIRING AN EMPLOYEE TO MAKE RESTITUTION TO THE STATE
8 FOR LOSS OR DAMAGE TO STATE PROPERTY DUE TO THE EMPLOYEE'S NEGLIGENCE
9 IS NOT A DISCIPLINARY ACTION WITHIN THE MEANING OF THIS SUBTITLE.

10 (2) AN APPOINTING AUTHORITY MAY NOT REQUIRE AN EMPLOYEE TO
11 PAY RESTITUTION EXCEEDING 3% OF THE EMPLOYEE'S ANNUAL BASE PAY.

12 (3) AN EMPLOYEE WHO IS ORDERED TO MAKE RESTITUTION UNDER
13 THIS SUBSECTION ALSO MAY BE SUBJECT TO CIVIL PROSECUTION OR CRIMINAL
14 PROSECUTION FOR WANTON DESTRUCTION OF PROPERTY UNDER THE STATE LAW.

15 11-109.

16 (A) THIS SUBTITLE DOES NOT PRECLUDE AN APPOINTING AUTHORITY AND
17 AN EMPLOYEE FROM AGREEING TO THE:

18 (1) SUSPENSION OF A DISCIPLINARY ACTION FOR A PERIOD NOT TO
19 EXCEED 18 MONTHS IN ORDER TO PERMIT AN EMPLOYEE TO IMPROVE CONDUCT OR
20 PERFORMANCE; OR

21 (2) IMPOSITION OF A LESSER DISCIPLINARY ACTION AS A FINAL AND
22 BINDING ACTION, NOT SUBJECT TO ANY FURTHER REVIEW.

23 (B) (1) IF AN EMPLOYEE FAILS TO APPEAL A DECISION IN ACCORDANCE
24 WITH THIS SUBTITLE, THE EMPLOYEE IS CONSIDERED TO HAVE ACCEPTED THE
25 DECISION.

26 (2) A FAILURE TO DECIDE AN APPEAL IN ACCORDANCE WITH THIS
27 SUBTITLE IS CONSIDERED A DENIAL FROM WHICH AN APPEAL MAY BE MADE.

28 (C) THE PARTIES MAY AGREE TO WAIVE OR EXTEND ANY TIME STATED IN
29 THIS SUBTITLE.

30 (D) EACH PARTY SHALL MAKE EVERY EFFORT TO RESOLVE AN APPEAL AT
31 THE LOWEST LEVEL POSSIBLE.

32 11-110.

33 (A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS
34 SECTION APPLIES ONLY TO EMPLOYEES IN THE SKILLED SERVICE OR THE
35 PROFESSIONAL SERVICE.

36 (2) THIS SECTION DOES NOT APPLY TO AN EMPLOYEE UNDER A
37 SPECIAL APPOINTMENT DESCRIBED IN § 6-405 OF THIS ARTICLE.

138

1 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN
2 EMPLOYEE IN THE SKILLED SERVICE OR THE PROFESSIONAL SERVICE MAY APPEAL
3 A DISCIPLINARY ACTION TAKEN WHILE THE EMPLOYEE IS ON PROBATION ONLY ON
4 THE BASIS THAT THE ACTION WAS ILLEGAL OR UNCONSTITUTIONAL.

5 (2) THE EMPLOYER HAS THE BURDEN OF PROOF IN AN APPEAL UNDER
6 THIS SECTION.

7 (3) THE LIMITATION IN PARAGRAPH (1) OF THIS SUBSECTION DOES NOT
8 APPLY TO AN EMPLOYEE IN THE SKILLED SERVICE OR THE PROFESSIONAL SERVICE
9 WHO IS ON PROBATION FOLLOWING A PROMOTION.

10 (C) (1) AN EMPLOYEE OR AN EMPLOYEE'S REPRESENTATIVE MAY FILE
11 WITH THE HEAD OF THE PRINCIPAL UNIT A WRITTEN APPEAL OF A DISCIPLINARY
12 ACTION THAT STATES, TO THE EXTENT POSSIBLE, THE ISSUES OF FACT AND LAW
13 THAT THE EMPLOYEE BELIEVES WOULD WARRANT RESCINDING THE DISCIPLINARY
14 ACTION.

15 (2) AN APPEAL UNDER THIS SUBTITLE MUST BE FILED WITHIN 15 DAYS
16 AFTER THE EMPLOYEE RECEIVES NOTICE OF THE APPOINTING AUTHORITY'S
17 ACTION.

18 (D) THE HEAD OF THE PRINCIPAL UNIT MAY CONFER WITH THE EMPLOYEE
19 BEFORE MAKING A DECISION.

20 (E) (1) THE HEAD OF THE PRINCIPAL UNIT MAY:

21 (I) UPHOLD THE DISCIPLINARY ACTION; OR

22 (II) RESCIND OR MODIFY THE DISCIPLINARY ACTION TAKEN AND
23 RESTORE TO THE EMPLOYEE ANY LOST TIME, COMPENSATION, STATUS, OR
24 BENEFITS.

25 (2) WITHIN 15 DAYS AFTER RECEIVING AN APPEAL, THE HEAD OF THE
26 PRINCIPAL UNIT SHALL ISSUE TO THE EMPLOYEE A WRITTEN DECISION THAT
27 ADDRESSES EACH POINT RAISED IN THE APPEAL.

28 11-111.

29 (A) (1) WITHIN 10 DAYS AFTER RECEIVING A DECISION UNDER § 11-110 OF
30 THIS SUBTITLE, AN EMPLOYEE OR AN EMPLOYEE'S REPRESENTATIVE MAY APPEAL
31 THE DECISION IN WRITING TO THE SECRETARY.

32 (2) AN APPEAL SHALL STATE, TO THE EXTENT POSSIBLE, THE ISSUES OF
33 FACT AND LAW THAT ARE THE BASIS FOR THE APPEAL.

34 (B) WITHIN 30 DAYS AFTER RECEIVING AN APPEAL, THE SECRETARY OR
35 DESIGNEE SHALL:

36 (1) (I) MEDIATE A SETTLEMENT BETWEEN THE EMPLOYEE AND THE
37 UNIT; OR

38 (II) UPHOLD THE UNIT'S DECISION AND REFER THE APPEAL TO
39 THE OFFICE OF ADMINISTRATIVE HEARINGS FOR A HEARING; AND

139

1 (2) ADVISE THE EMPLOYEE IN WRITING OF THE SECRETARY'S ACTION.

2 (C) (1) WITHIN 30 DAYS AFTER RECEIVING THE APPEAL, THE OFFICE OF
3 ADMINISTRATIVE HEARINGS SHALL SCHEDULE A HEARING AND NOTIFY THE
4 PARTIES OF THE HEARING DATE.

5 (2) THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL CONDUCT A
6 HEARING ON EACH APPEAL IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE
7 STATE GOVERNMENT ARTICLE. THE OFFICE IS BOUND BY ANY REGULATION,
8 DECLARATORY RULING, PRIOR ADJUDICATION, OR OTHER SETTLED, PREEXISTING
9 POLICY, TO THE SAME EXTENT AS THE DEPARTMENT IS OR WOULD HAVE BEEN
10 BOUND IF IT WERE HEARING THE CASE.

11 (D) (1) EXCEPT AS OTHERWISE PROVIDED BY THIS SUBTITLE, THE OFFICE
12 OF ADMINISTRATIVE HEARINGS MAY:

13 (I) UPHOLD THE DISCIPLINARY ACTION;

14 (II) RESCIND OR MODIFY THE DISCIPLINARY ACTION TAKEN AND
15 RESTORE TO THE EMPLOYEE ANY LOST TIME, COMPENSATION, STATUS, OR
16 BENEFITS; OR

17 (III) ORDER:

18 1. REINSTATEMENT TO THE POSITION THAT THE EMPLOYEE
19 HELD AT DISMISSAL OR, IF THAT IS IMPRACTICAL, TO A COMPARABLE POSITION
20 WITHIN THE UNIT;

21 2. FULL BACK PAY, WITH A DEDUCTION FOR INTERIM
22 EARNINGS FROM EMPLOYMENT ELSEWHERE OR AMOUNTS EARNABLE WITH
23 REASONABLE DILIGENCE; OR

24 3. BOTH 1 AND 2.

25 (2) WITHIN 45 DAYS AFTER THE CLOSE OF THE HEARING RECORD, THE
26 OFFICE OF ADMINISTRATIVE HEARINGS SHALL ISSUE TO THE PARTIES A WRITTEN
27 DECISION.

28 (3) THE DECISION OF THE OFFICE OF ADMINISTRATIVE HEARINGS IS
29 FINAL.

30 11-112.

31 (A) IF THE PRINCIPAL UNIT HAS ESTABLISHED A PEER REVIEW PANEL FOR
32 DISCIPLINARY ACTIONS IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE
33 SECRETARY, THE EMPLOYEE, AND THE PRINCIPAL UNIT MAY AGREE IN WRITING TO
34 SUBMIT THE APPEAL TO THE PEER REVIEW PANEL, INSTEAD OF USING THE APPEAL
35 PROCEDURES IN §§ 11-110 AND 11-111 OF THIS SUBTITLE.

36 (B) THE PEER REVIEW PANEL:

37 (1) SHALL UPHOLD THE DISCIPLINARY ACTION TAKEN IF IT
38 DETERMINES THAT GOOD CAUSE FOR THE ACTION EXISTED; OR

140

1 (2) MAY RESCIND OR MODIFY THE DISCIPLINARY ACTION TAKEN AND
2 RESTORE TO THE EMPLOYEE ANY LOST TIME, COMPENSATION, STATUS, OR
3 BENEFITS.

4 (C) (1) WITHIN THE TIME REQUIRED BY REGULATION, THE PEER REVIEW
5 PANEL SHALL ISSUE TO THE PARTIES A WRITTEN DECISION.

6 (2) THE DECISION OF THE PEER REVIEW PANEL IS FINAL.

7 11-113.

8 (A) THIS SECTION ONLY APPLIES TO AN EMPLOYEE:

9 (1) IN THE MANAGEMENT SERVICE;

10 (2) IN EXECUTIVE SERVICE; OR

11 (3) UNDER A SPECIAL APPOINTMENT DESCRIBED IN § 6-405 OF THIS
12 ARTICLE.

13 (B) (1) AN EMPLOYEE OR AN EMPLOYEE'S REPRESENTATIVE MAY FILE A
14 WRITTEN APPEAL OF A DISCIPLINARY ACTION WITH THE HEAD OF THE PRINCIPAL
15 UNIT.

16 (2) AN APPEAL:

17 (I) MUST BE FILED WITHIN 15 DAYS AFTER THE EMPLOYEE
18 RECEIVES NOTICE OF THE DISCIPLINARY ACTION; AND

19 (II) MAY ONLY BE BASED ON THE GROUNDS THAT THE
20 DISCIPLINARY ACTION IS ILLEGAL OR UNCONSTITUTIONAL.

21 (3) THE EMPLOYEE HAS THE BURDEN OF PROOF IN AN APPEAL UNDER
22 THIS SECTION.

23 (C) THE HEAD OF THE PRINCIPAL UNIT MAY CONFER WITH THE EMPLOYEE
24 BEFORE MAKING A DECISION.

25 (D) (1) THE HEAD OF THE PRINCIPAL UNIT MAY:

26 (I) UPHOLD THE DISCIPLINARY ACTION; OR

27 (II) RESCIND OR MODIFY THE DISCIPLINARY ACTION AND
28 RESTORE TO THE EMPLOYEE ANY LOST TIME, COMPENSATION, STATUS, OR
29 BENEFITS.

30 (2) WITHIN 15 DAYS AFTER RECEIVING AN APPEAL, THE HEAD OF THE
31 PRINCIPAL UNIT SHALL ISSUE THE EMPLOYEE A WRITTEN DECISION.

32 (3) THE DECISION OF THE HEAD OF THE PRINCIPAL UNIT IS FINAL.

141

1 Subtitle [5.] 2. Layoffs.

2 [9-501.] 11-201.

3 (a) (1) Except as otherwise provided by law, this subtitle ONLY applies to [all
4 classified service and unclassified service employees] SKILLED SERVICE AND
5 PROFESSIONAL SERVICE EMPLOYEES in the State Personnel Management System.

6 (2) THE PROCEDURES IN THIS SUBTITLE DO NOT APPLY TO:

7 (I) A DISCIPLINARY ACTION UNDER SUBTITLE 1 OF THIS TITLE;

8 (II) A TERMINATION OR SEPARATION FROM EMPLOYMENT UNDER
9 SUBTITLE 3 OF THIS TITLE; OR

10 (III) SPECIAL APPOINTEES.

11 [(b) This subtitle does not apply to:

12 (1) unclassified service employees of the Injured Workers' Insurance Fund;

13 (2) unclassified service employees of the central collection unit in the
14 Department of Budget and Fiscal Planning;

15 (3) unclassified service employees of the Maryland Automobile Insurance
16 Fund; or

17 (4) the faculty or any other unclassified employee of a State institution of
18 higher education or of its governing board.

19 (c) This subtitle does not apply to a separation from any position for which the
20 appropriation in the State budget is:

21 (1) omitted by the Governor, as evidenced in the supporting documentation
22 submitted with the budget;

23 (2) struck by the General Assembly, as evidenced in the budget bill or in the
24 report of the budget committees; or

25 (3) reduced by the Governor in accordance with § 7-213 of the State
26 Finance and Procurement Article, as evidenced in the supporting documentation
27 submitted to the Board of Public Works.]

28 [(d)] (B) This subtitle does not prevent the layoff of an employee who submits to
29 the [Secretary] HEAD OF THE EMPLOYEE'S PRINCIPAL UNIT a written request to be
30 laid off.

31 [9-503.] 11-202.

32 [(a) (1)] The Secretary shall adopt regulations to provide procedures that are
33 uniform among the principal [departments and other independent] units for:

34 [(i)] (1) the layoff of employees IN THE SKILLED SERVICE OR THE
35 PROFESSIONAL SERVICE[, regardless of employment status]; and

142

1 [(ii)] (2) the reinstatement of laid-off [classified service or the
2 unclassified service] SKILLED SERVICE OR PROFESSIONAL SERVICE employees to
3 comparable positions in State employment.

4 [(2) The regulations for the reinstatement of laid-off unclassified service
5 employees shall be similar to the regulations for the reinstatement of laid-off classified
6 service employees.]

7 [(b) In coordination with the Secretary, the University of Maryland System shall
8 develop layoff and reinstatement procedures for its classified employees.]

9 [9-502.] 11-203.

10 An employee shall be laid off if the employee is in a position that will be abolished,
11 discontinued, or vacated because of a change in organization or because of a stoppage or
12 lack of work.

13 11-204.

14 AT LEAST 60 DAYS BEFORE A LAYOFF IS EFFECTIVE, AN APPOINTING
15 AUTHORITY SHALL GIVE A NOTICE OF A LAYOFF TO EACH EMPLOYEE TO BE
16 AFFECTED BY THE LAYOFF.

17 11-205.

18 (A) FOR PURPOSES OF A LAYOFF, AN APPOINTING AUTHORITY SHALL
19 COMPUTE THE FOLLOWING POINTS FOR EACH EMPLOYEE SUBJECT TO THE LAYOFF:

20 (1) ONE POINT FOR EACH MONTH OF STATE EMPLOYMENT;

21 (2) ONE POINT FOR EACH MONTH OF EMPLOYMENT IN THE PRINCIPAL
22 UNIT IN WHICH THE LAYOFF WILL OCCUR; AND

23 (3) ONE POINT FOR EACH MONTH OF EMPLOYMENT IN THE CLASS IN
24 WHICH THE LAYOFF WILL OCCUR.

25 (B) AN EMPLOYEE'S SENIORITY POINTS ARE THE TOTAL OF THE POINTS
26 DETERMINED UNDER SUBSECTION (A) OF THIS SECTION.

27 [9-504.] 11-206.

28 (a) [The regulations adopted by the Secretary under this subtitle shall include an
29 order of layoffs determined by seniority points, including credit for:

30 (1) total State service;

31 (2) service within the principal department or other independent unit in
32 which the layoff will occur; and

33 (3) service in the class and its job series, as defined by the Secretary, in
34 which the layoff will occur.] EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF
35 THIS SECTION:

36 (1) EMPLOYEES IN A CLASS ARE TO BE LAID OFF BASED ON SENIORITY
37 POINTS; AND

143

1 (2) THE EMPLOYEE IN THE CLASS WITH LESS SENIORITY POINTS SHALL
2 BE LAID OFF BEFORE OTHERS IN THE CLASS WITH HIGHER SENIORITY POINTS.

3 (b) [The regulations shall provide that if] IF two or more employees in the same
4 class have an equal number of seniority points, the employee with less [total State
5 service] POINTS FOR TOTAL STATE EMPLOYMENT shall be laid off first.

6 (c) [The regulations shall provide that if] IF two or more employees in the same
7 class have an equal number of seniority points and the same [total State service]
8 NUMBER OF POINTS FOR TOTAL STATE EMPLOYMENT, the appointing authority shall:

9 (1) determine which employee to retain by making a written evaluation of
10 the skills, knowledge, or abilities of each employee; and

11 (2) submit the evaluation to the Secretary.

12 [9-505.] 11-207.

13 (a) [The regulations adopted by the Secretary under this subtitle shall provide
14 that an] AN employee being laid off may displace another employee who has the least
15 seniority points: [of any employee]

16 (1) in the same class or job series as the employee being laid off; or

17 (2) in any other class in which the laid-off employee previously held
18 satisfactory [permanent] NONPROBATIONARY status WITHIN THE 12 MONTHS
19 IMMEDIATELY PRIOR TO THE EFFECTIVE DATE OF THE LAYOFF.

20 (b) [The regulations shall limit the application of subsection] SUBSECTION (a) of
21 this section SHALL APPLY:

22 (1) FIRST TO THE EMPLOYEE'S CURRENT APPOINTING AUTHORITY
23 REGARDLESS OF GEOGRAPHICAL AREA;

24 (2) IF THE PROVISIONS IN (1) ABOVE ARE NOT AVAILABLE, TO THE
25 EMPLOYEE'S CURRENT DEPARTMENT; OR

26 (3) A SECRETARY OR HEAD OF A STATE DEPARTMENT MAY LIMIT THE
27 DISPLACEMENT WITHIN THE DEPARTMENT TO ONE OR MORE OF THE ESTABLISHED
28 GEOGRAPHICAL AREAS AS PRESCRIBED BY THE SECRETARY.

29 [(1) first, to the employee's appointing authority; and

30 (2) subsequently:

31 (i) to the employee's principal department or other independent unit,
32 regardless of geographical area; or

33 (ii) to the employee's principal department or other independent unit
34 in a specific geographical area, as defined by the Secretary.]

35 [9-506.] 11-208.

36 [The regulations adopted by the Secretary under this subtitle shall include an order
37 of reinstatement determined by seniority points, including provisions that:]

144

1 [(1)] (A) [the] THE employee with the most seniority points shall be the
2 first employee to be reinstated in the class from which the employee was laid off or to any
3 lower class in the same job series within the principal department or other independent
4 unit in which the layoff occurred[; and].

5 [(2)] (B) [reinstatement] REINSTATEMENT to a comparable [job] class to
6 which the Secretary has certified laid-off employees shall be made fromamong the five
7 laid-off employees with the most seniority points who are certified to the class.

8 SUBTITLE 3. EMPLOYMENT SEPARATIONS AND TERMINATIONS.

9 11-301.

10 (A) THIS SUBTITLE APPLIES TO ALL EMPLOYEES IN THE STATE PERSONNEL
11 MANAGEMENT SYSTEM.

12 (B) (1) THE PROCEDURES IN THIS SUBTITLE DO NOT APPLY TO ANY
13 TERMINATION OF EMPLOYMENT THAT IS A DISCIPLINARY ACTION.

14 (2) APPEALS FOR DISCIPLINARY TERMINATIONS OF EMPLOYMENT ARE
15 GOVERNED BY SUBTITLE 1 OF THIS TITLE.

16 11-302.

17 (A) AN EMPLOYEE IS SEPARATED FROM STATE SERVICE WHEN THE
18 APPROPRIATION IN THE STATE BUDGET FOR THE POSITION IS:

19 (1) OMITTED BY THE GOVERNOR, AS EVIDENCED IN THE SUPPORTING
20 DOCUMENTATION SUBMITTED WITH THE BUDGET;

21 (2) STRUCK BY THE GENERAL ASSEMBLY, AS EVIDENCED IN THE
22 BUDGET BILL OR IN THE REPORT OF THE BUDGET COMMITTEES; OR

23 (3) REDUCED BY THE GOVERNOR IN ACCORDANCE WITH § 7-213 OF THE
24 STATE FINANCE AND PROCUREMENT ARTICLE, AS EVIDENCED IN THE SUPPORTING
25 DOCUMENTATION SUBMITTED TO THE BOARD OF PUBLIC WORKS.

26 (B) AN EMPLOYEE MAY NOT APPEAL A SEPARATION FROM EMPLOYMENT
27 UNDER THIS SUBSECTION.

28 (C) AN EMPLOYEE WHO IS SEPARATED UNDER THIS SECTION IS NOT SUBJECT
29 TO THE LAYOFF PROVISIONS OF SUBTITLE 2 OF THIS TITLE.

30 11-303.

31 (A) AN APPOINTING AUTHORITY MAY TERMINATE THE EMPLOYMENT OF A
32 PROBATIONARY EMPLOYEE.

33 (B) BEFORE TERMINATING AN EMPLOYEE WHO IS ON PROBATION, THE
34 APPOINTING AUTHORITY SHALL GIVE THE EMPLOYEE A NOTICE OF TERMINATION
35 AT LEAST 10 DAYS BEFORE THE EFFECTIVE DATE OF THE TERMINATION.

145

1 (C) AN APPOINTING AUTHORITY MAY SUSPEND A PROBATIONARY
2 EMPLOYEE WITH PAY BETWEEN THE DATE OF THE NOTICE AND THE EFFECTIVE
3 DATE OF THE TERMINATION.

4 (D) A PROBATIONARY EMPLOYEE MAY APPEAL A TERMINATION UNDER THIS
5 SECTION ONLY ON THE GROUNDS THAT THE TERMINATION IS ILLEGAL OR
6 UNCONSTITUTIONAL.

7 11-304.

8 (A) (1) THIS SECTION APPLIES TO EMPLOYEES ON PROBATION FOLLOWING
9 A PROMOTION TO A POSITION IN THE SKILLED SERVICE OR PROFESSIONAL SERVICE.

10 (2) THIS SECTION DOES NOT APPLY TO PROBATIONARY EMPLOYEES IN
11 THE MANAGEMENT SERVICE OR EXECUTIVE SERVICE OR UNDER A SPECIAL
12 APPOINTMENT.

13 (B) IF, IN THE APPOINTING AUTHORITY'S JUDGMENT, A PROBATIONARY
14 EMPLOYEE SUBJECT TO THIS SECTION IS UNABLE OR UNWILLING TO
15 SATISFACTORILY PERFORM THE DUTIES OR RESPONSIBILITIES OF THE POSITION,
16 THE APPOINTING AUTHORITY SHALL:

17 (1) RETURN THE EMPLOYEE TO THE EMPLOYEE'S FORMER POSITION IF
18 IT IS VACANT; OR

19 (2) DEMOTE THE EMPLOYEE TO A POSITION COMPARABLE TO THE
20 EMPLOYEE'S POSITION WITHIN THE APPOINTING AUTHORITY'S JURISDICTION.

21 (C) A PROBATIONARY EMPLOYEE MAY APPEAL A DEMOTION UNDER THIS
22 SECTION ONLY ON THE GROUNDS THAT THE DEMOTION IS ILLEGAL OR
23 UNCONSTITUTIONAL.

24 11-305.

25 (A) THIS SECTION ONLY APPLIES TO AN EMPLOYEE WHO IS IN A POSITION:

26 (1) UNDER A SPECIAL APPOINTMENT; OR

27 (2) IN THE MANAGEMENT SERVICE; OR

28 (3) IN THE EXECUTIVE SERVICE.

29 (B) EACH EMPLOYEE SUBJECT TO THIS SECTION:

30 (1) SERVES AT THE PLEASURE OF THE EMPLOYEE'S APPOINTING
31 AUTHORITY; AND

32 (2) MAY BE TERMINATED FROM EMPLOYMENT FOR ANY REASON,
33 SOLELY IN THE DISCRETION OF THE APPOINTING AUTHORITY.

34 (C) (1) AN EMPLOYEE OR AN EMPLOYEE'S REPRESENTATIVE MAY FILE A
35 WRITTEN APPEAL OF AN EMPLOYMENT TERMINATION UNDER THIS SECTION WITH
36 THE HEAD OF THE PRINCIPAL UNIT WITHIN 15 DAYS AFTER RECEIVING NOTICE OF
37 THE TERMINATION.

146

1 (2) AN APPEAL:

2 (I) MUST BE FILED WITHIN 15 DAYS AFTER THE EMPLOYEE
3 RECEIVES NOTICE OF THE TERMINATION; AND

4 (II) MAY ONLY BE BASED ON THE GROUNDS THAT THE
5 TERMINATION IS ILLEGAL OR UNCONSTITUTIONAL.

6 (3) THE EMPLOYEE HAS THE BURDEN OF PROOF IN AN APPEAL UNDER
7 THIS SECTION.

8 (D) THE HEAD OF THE PRINCIPAL UNIT MAY CONFER WITH THE EMPLOYEE
9 BEFORE MAKING A DECISION.

10 (E) (1) THE HEAD OF THE PRINCIPAL UNIT MAY:

11 (I) UPHOLD THE TERMINATION; OR

12 (II) RESCIND THE TERMINATION AND RESTORE TO THE
13 EMPLOYEE ANY LOST TIME, COMPENSATION, STATUS, OR BENEFITS.

14 (2) WITHIN 15 DAYS AFTER RECEIVING AN APPEAL, THE HEAD OF THE
15 PRINCIPAL UNIT SHALL ISSUE THE EMPLOYEE A WRITTEN DECISION.

16 (3) THE DECISION OF THE HEAD OF THE PRINCIPAL UNIT IS FINAL.

17 11-306.

18 AS OF THE EFFECTIVE DATE OF AN EMPLOYMENT TERMINATION, THE
19 INDIVIDUAL WHOSE EMPLOYMENT IS TERMINATED:

20 (1) IS IN A NONPAY STATUS; AND

21 (2) SHALL REMAIN OFF THE WORK SITE PENDING AN APPEAL.

22 Subtitle [6.] 4. Resignations.

23 11-401.

24 ANY EMPLOYEE MAY TERMINATE EMPLOYMENT BY RESIGNING FROM THE
25 EMPLOYEE'S POSITION.

26 [9-601.] 11-402.

27 The Secretary shall adopt regulations to govern resignations by [classified]
28 SKILLED SERVICE AND PROFESSIONAL service employees.

29 [9-602.] 11-403.

30 Any resignation from a [classified service] position IN THE SKILLED SERVICE OR
31 PROFESSIONAL SERVICE is void if the resignation, whether dated or undated, is signed
32 before the day of appointment to that position.

147

1 Title [10.] 12. Grievance Procedures IN STATE PERSONNEL MANAGEMENT SYSTEM.

2 Subtitle 1. Definitions and General Provisions.

3 [10-101.] 12-101.

4 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

5 [(a)] (B) (1) [In this title, "grievance"] "GRIEVANCE" means a dispute
6 between an employee and the [employee's] employer about the interpretation of and
7 application to the employee of A POLICY, PROCEDURE, OR REGULATION ADOPTED BY
8 THE EMPLOYER:

9 [(1)] (I) [a personnel policy or regulation adopted by the Secretary] THAT
10 AFFECTS THE EMPLOYEE'S PAY, STATUS, OR WORKING CONDITIONS; [or] AND

11 [(2)] (II) [any other policy or regulation over which management has
12 control] THAT THE EMPLOYEE ALLEGES IS ARBITRARY AND CAPRICIOUS OR
13 ILLEGAL.

14 [(b)] (2) "Grievance" does not include a dispute [concerning] ABOUT:

15 [(1)] (I) [the pay rate for a job class] A PAY GRADE OR RANGE FOR A
16 CLASS;

17 [(2)] (II) the amount or the effective date of a statewide [general] pay
18 increase; [or]

19 [(3)] (III) [the State's pay schedule] THE ESTABLISHMENT OF A CLASS;

20 (IV) THE ASSIGNMENT OF A CLASS TO A SERVICE CATEGORY; OR

21 (V) THE ESTABLISHMENT OF CLASSIFICATION STANDARDS.

22 (C) "EMPLOYER" MEANS ONE OR MORE OF THE FOLLOWING:

23 (1) AN EMPLOYEE'S APPOINTING AUTHORITY;

24 (2) AN EMPLOYEE'S PRINCIPAL UNIT; OR

25 (3) THE DEPARTMENT OF PERSONNEL.

26 [10-102.] 12-102.

27 (a) Except as otherwise provided by law, this title applies to all [classified service
28 and unclassified service] employees [of any unit in the Executive Branch of State
29 government] IN THE STATE PERSONNEL MANAGEMENT SYSTEM.

30 (b) This title does not apply to:

31 (1) [an elected State official;

32 (2) an [individual] EMPLOYEE who is appointed by the Governor [or]
33 whose appointment requires the Governor's approval OR A SPECIAL APPOINTMENT
34 PURSUANT TO § 6-405 OF THIS ARTICLE;

148

1 [(3)] (2) [the Chief Deputy State Comptroller] AN EMPLOYEE IN THE
 2 EXECUTIVE SERVICE OF THE STATE PERSONNEL MANAGEMENT SYSTEM;

3 [(4)] (3) [the Chief Deputy State Treasurer] A TEMPORARY EMPLOYEE;

4 [(5)] (4) an attorney in the office of the Attorney General OR THE OFFICE
 5 OF THE PUBLIC DEFENDER;

6 [(6)] (5) [an attorney in the office of or engaged by the Public Defender]
 7 AN ADMINISTRATIVE LAW JUDGE IN THE OFFICE OF ADMINISTRATIVE HEARINGS;

8 [(7)] (6) [an employee of the Department] A STATE POLICE OFFICER;

9 [(8)] (7) [a State Police officer] AN EMPLOYEE OF THE DEPARTMENT;

10 [(9)] (8) an employee who is subject to a collective bargaining agreement
 11 that contains another grievance procedure;

12 [(10)] (9) [an individual who, as an inmate or patient in an institution, is
 13 employed by this State] AN EMPLOYEE, INCLUDING A MEMBER OF A FACULTY, WHO
 14 IS SUBJECT TO A CONTRACT OR REGULATION GOVERNING TEACHER TENURE;

15 [(11)] (10) [a student employee] A MEMBER OF THE FACULTY, AN
 16 OFFICER, OR AN ADMINISTRATIVE EMPLOYEE OF BALTIMORE CITY COMMUNITY
 17 COLLEGE;

18 [(12)] (11) [an employee, including a member of a faculty, who is subject to a
 19 contract or regulations governing teacher tenure] A STUDENT EMPLOYEE; OR

20 [(13)] (12) [an employee of the University of Maryland System] AN
 21 INDIVIDUAL WHO, AS AN INMATE OR PATIENT IN AN INSTITUTION, IS EMPLOYED BY
 22 THE STATE.

23 [(14)] an employee of St. Mary's College of Maryland;

24 [(15)] an employee of Morgan State University; or

25 [(16)] a member of the faculty, an officer, or an administrative employee of
 26 Baltimore City Community College.]

27 [10-103.] 12-103.

28 (A) [Unless a different procedure is provided for by law, an] AN employee with a
 29 grievance OR THE GRIEVANT'S REPRESENTATIVE may present [that] THE grievance
 30 [in accordance with this title,] free from coercion, discrimination, interference, reprisal,
 31 or restraint.

32 (B) UNLESS ANOTHER PROCEDURE IS PROVIDED FOR BY LAW, THE
 33 GRIEVANCE PROCEDURE IS THE EXCLUSIVE REMEDY THROUGH WHICH AN
 34 EMPLOYEE MAY SEEK AN ADMINISTRATIVE REMEDY.

35 [10-104.] 12-104.

36 For employees of the Department, the Secretary shall provide separate grievance
 37 procedures that are similar to the grievance procedures specified in this title.

149

1 [10-204.] 12-105.

2 (a) [A grievant may be represented at any time by any person that the grievant
3 chooses] A GRIEVANT MAY CHOOSE ANY PERSON TO ASSIST OR REPRESENT THE
4 GRIEVANT AT ANY TIME DURING THE GRIEVANCE PROCESS AND SHALL NOTIFY
5 THE EMPLOYER OF THAT CHOICE.

6 (b) [(1) An appointing authority and the head of each principal department or
7 other independent unit may be represented at any time by an individual designated for
8 that purpose.

9 (2) Each department or unit head shall submit to the Secretary a list of
10 individuals designated to represent the department or unit head at each stage of the
11 grievance proceeding.]

12 THE APPOINTING AUTHORITY, THE HEAD OF THE PRINCIPAL UNIT, OR THE
13 SECRETARY MAY DESIGNATE AN INDIVIDUAL TO ASSIST OR REPRESENT THEM AT
14 ANY STEP OF THE GRIEVANCE PROCESS AND SHALL NOTIFY THE GRIEVANT OF
15 THAT DESIGNATION.

16 [10-203.] 12-106.

17 (a) [If] EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, IF a grievant fails to
18 appeal a decision in accordance with this title to the next step in the grievance
19 [proceeding] PROCEDURE, the grievant is considered to have accepted the decision.

20 (b) [If a grievance is not decided at any step in the grievance proceeding, the
21 grievance is considered as denied and the grievant may appeal to the next step.] EXCEPT
22 AS OTHERWISE PROVIDED IN THIS TITLE, A FAILURE TO DECIDE A GRIEVANCE AT
23 ANY STEP IN THE GRIEVANCE PROCEDURE IN ACCORDANCE WITH THIS TITLE IS
24 CONSIDERED A DENIAL FROM WHICH AN APPEAL MAY BE MADE.

25 [10-303.] 12-107.

26 (A) The parties may agree to waive any time limitations specified in this title.

27 (B) IF THE INDIVIDUAL RESPONSIBLE TO PREPARE A DECISION TO A
28 GRIEVANCE AT STEP ONE OR STEP TWO OF THE GRIEVANCE PROCEDURE CANNOT
29 RESPOND WITHIN THE TIME SPECIFIED IN THIS TITLE BECAUSE THE INDIVIDUAL IS
30 ON APPROVED LEAVE FOR 3 OR MORE DAYS:

31 (1) THE PERIOD FOR THE DECISION SHALL BE EXTENDED BY THE
32 NUMBER OF DAYS OF THE APPROVED LEAVE; AND

33 (2) THE GRIEVANT SHALL BE NOTIFIED OF THE EXTENSION OF TIME.

34 [10-105.] 12-108.

35 The Secretary shall provide for forms for initiating and processing grievances THAT
36 INCLUDE THE INFORMATION THE SECRETARY REQUIRES BY REGULATION.

37 [10-202.] 12-109.

38 Each party to a grievance shall make every effort to resolve the grievance at the
39 lowest level possible.

150

1 Subtitle 2. [Procedures.] GRIEVANCE PROCEDURE.

2 [10-201.] 12-201.

3 (a) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SECTION, [The]
4 THE three steps AVAILABLE TO A GRIEVANT in the grievance [proceeding]
5 PROCEDURE are:

6 [(1)] (I) STEP ONE: the initiation of a grievance [proceeding] PROCEDURE;

7 [(2)] (II) STEP TWO: an appeal to the head of the principal [department or
8 other independent] unit; and

9 [(3)] (III) STEP THREE: an appeal to the Secretary.

10 (2) IF A GRIEVANCE IS BASED ON A PERFORMANCE RATING OF
11 SATISFACTORY OR BETTER:

12 (I) THE GRIEVANT ONLY MAY APPEAL THE GRIEVANCE AT STEPS
13 ONE AND TWO OF THE GRIEVANCE PROCEDURE; AND

14 (II) A DECISION AT STEP TWO OF THE GRIEVANCE PROCEDURE IS
15 FINAL.

16 (b) [The parties may agree to bypass any step of the grievance proceeding.]

17 (1) WHEN A GRIEVANT'S APPOINTING AUTHORITY IS ALSO THE HEAD
18 OF THE PRINCIPAL UNIT, THE GRIEVANT SHALL APPEAL THE STEP ONE DECISION
19 DIRECTLY TO STEP THREE OF THE GRIEVANCE PROCEDURE.

20 (2) IF THE BASIS OF A GRIEVANCE IS AN ACTION TAKEN BY THE
21 PRINCIPAL UNIT OR BY THE DEPARTMENT, THE PARTIES MAY AGREE TO PROCEED
22 TO STEP TWO OR STEP THREE OF THE GRIEVANCE PROCEDURE AS APPROPRIATE.

23 [10-205.] 12-202.

24 Before initiating a grievance procedure, an employee shall present the matter orally
25 to the employee's supervisor for informal discussion.

26 [10-206.]

27 A grievance proceeding must be initiated by an employee within 30 days after:

28 (1) the occurrence of the alleged act that is the basis for the grievance; or

29 (2) the employee first knew or reasonably should have known of the alleged
30 act that is the basis for the grievance.]

31 [10-207.] 12-203.

32 (a) [Within the time specified in § 10-206 of this subtitle, the] A grievant may
33 initiate a grievance proceeding by filing a written grievance with the GRIEVANT'S
34 appointing authority. THE GRIEVANT SHALL PROVIDE A COPY OF THE GRIEVANCE TO
35 THE GRIEVANT'S SUPERVISOR WHEN THE GRIEVANCE IS FILED.

151

1 (B) A GRIEVANCE PROCEDURE MUST BE INITIATED BY AN EMPLOYEE
2 WITHIN 20 DAYS AFTER:

3 (1) THE OCCURRENCE OF THE ALLEGED ACT THAT IS THE BASIS OF THE
4 GRIEVANCE; OR

5 (2) THE EMPLOYEE FIRST KNEW OF OR REASONABLY SHOULD HAVE
6 KNOWN OF THE ALLEGED ACT THAT IS THE BASIS OF THE GRIEVANCE.

7 [(b)] (C) Within 10 days after RECEIVING [the] A grievance [is received], the
8 appointing authority shall hold a conference with the grievant AND THEYSHALL
9 ATTEMPT TO RESOLVE THE GRIEVANCE.

10 [(c)] (D) WITHIN 10 DAYS AFTER THE CONFERENCE, [The] THE appointing
11 authority shall issue a written decision to the grievant [within 15 days after the
12 conference] AND MAY GRANT ANY APPROPRIATE REMEDY UNDER § 12-402(A) OF
13 THIS TITLE.

14 [10-208.] 12-204.

15 (a) (1) Within 10 days after receiving a decision under [§ 10-207] §12-203 of
16 this subtitle, a grievant or a grievant's representative may appeal THEDECISION in
17 writing to the head of the grievant's principal [department or other independent] unit
18 OR DESIGNEE.

19 (2) AN APPEAL SHALL INCLUDE A COPY OF THE DECISION BEING
20 APPEALED.

21 (b) Within 10 days after [the] RECEIVING AN appeal [is received], the
22 [department or unit] head OF THE PRINCIPAL UNIT OR DESIGNEE shall [holda
23 conference with the grievant]:

24 (1) REVIEW THE GRIEVANCE RECORD; AND

25 (2) CONFER WITH THE GRIEVANT AND THEY SHALL ATTEMPT TO
26 RESOLVE THE GRIEVANCE.

27 (c) [The department or unit head shall issue a written decision to the grievant
28 within 15 days after the conference.] WITHIN 10 DAYS AFTER THE CONFERENCE, THE
29 HEAD OF THE PRINCIPAL UNIT OR DESIGNEE SHALL ISSUE A WRITTEN DECISION TO
30 THE GRIEVANT AND MAY GRANT ANY APPROPRIATE REMEDY UNDER § 12-402(A) OF
31 THIS TITLE.

32 [10-209.] 12-205.

33 (a) (1) Within [15] 10 days after receiving a decision under [§ 10-208] § 12-204
34 of this subtitle, a grievant or a grievant's representative may appeal THE DECISION in
35 writing to the Secretary.

36 (2) [The appeal shall designate whether the grievant elects the appeal to be
37 heard by the Secretary or submitted to arbitration.] AN APPEAL SHALL INCLUDE A
38 COPY OF THE DECISION BEING APPEALED AND ANY PRIOR DECISIONS.

152

1 [(3) In a reclassification grievance proceeding, the Secretary shall order an
2 audit of the position if it has not been audited within the last year.]

3 (b) [(1) If the grievant elects to have a hearing, the Secretary shall conduct the
4 hearing.

5 (2) If the grievant consents, the hearing may be conducted at aregional site
6 designated by the Secretary for grievance hearings.

7 (3) The Secretary shall issue a decision in writing within 45 days after the
8 later of:

9 (i) the conclusion of the hearing; or

10 (ii) the day when all briefs or memoranda have been submitted.]

11 (1) WITHIN 30 DAYS AFTER AN APPEAL IS RECEIVED, THE SECRETARY
12 OR DESIGNEE SHALL:

13 (I) REVIEW THE GRIEVANCE RECORD;

14 (II) IF THE GRIEVANCE IS BASED ON A POSITION
15 RECLASSIFICATION, ORDER AN AUDIT OF THE POSITION IF IT HAS NOT BEEN
16 AUDITED WITHIN THE LAST YEAR; AND

17 (III) TAKE THE ACTION DESCRIBED IN PARAGRAPH (2) OR
18 PARAGRAPH (3) OF THIS SECTION AND GIVE THE PARTIES WRITTEN NOTICE OF
19 THAT ACTION.

20 (2) (I) IF THE SECRETARY OR DESIGNEE DOES NOT CONCUR WITH
21 THE DECISION OF THE UNIT, THE SECRETARY OR DESIGNEE SHALL ATTEMPT TO
22 RESOLVE THE GRIEVANCE.

23 (II) WHEN THE GRIEVANT DOES NOT AGREE TO A PROPOSED
24 SETTLEMENT OF THE GRIEVANCE, THE SECRETARY OR DESIGNEE SHALL REFER
25 THE GRIEVANCE TO THE OFFICE OF ADMINISTRATIVE HEARINGS FOR A HEARING.

26 (3) IF THE SECRETARY OR DESIGNEE CONCURS WITH THE DECISION OF
27 THE UNIT, THE SECRETARY OR DESIGNEE SHALL REFER THE GRIEVANCE TO THE
28 OFFICE OF ADMINISTRATIVE HEARINGS FOR A HEARING.

29 (c) [(1) If the grievant elects arbitration, the parties shall mutually select an
30 arbitrator.

31 (2) If the parties are unable to agree on an arbitrator, an arbitrator shall be
32 selected through the American Arbitration Association in accordance with its procedures.

33 (3) The arbitrator shall assess all fees that result from the arbitration
34 equally between the parties.

35 (4) The arbitrator shall issue an advisory decision to the Secretary, and
36 additional appeals or hearings may not be considered or held.

153

1 (5) Within 15 days after the decision of the arbitrator is received, the
2 Secretary shall issue a decision in writing.]

3 (1) THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL CONDUCT A
4 HEARING ON EACH GRIEVANCE RECEIVED FROM THE SECRETARY IN ACCORDANCE
5 WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE. THE OFFICE IS
6 BOUND BY ANY REGULATION, DECLARATORY RULING, PRIOR ADJUDICATION, OR
7 OTHER SETTLED, PREEXISTING POLICY, TO THE SAME EXTENT AS THE
8 DEPARTMENT IS OR WOULD HAVE BEEN BOUND IF IT WERE HEARING THE CASE.

9 (2) (I) WITHIN 45 DAYS AFTER THE CLOSE OF THE HEARING RECORD,
10 THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL ISSUE A WRITTEN DECISION TO
11 THE PARTIES AND MAY GRANT ANY APPROPRIATE REMEDY UNDER § 12-402 OF THIS
12 TITLE.

13 (II) THE DECISION OF THE OFFICE OF ADMINISTRATIVE HEARINGS
14 IS FINAL.

15 [(d) (1) A decision of the Secretary is final and binding on all parties.

16 (2) If an initial determination is rescinded by the Secretary, further action
17 may not be taken against the grievant with respect to any charge that was considered at
18 the hearing.]

19 Subtitle 3. [Miscellaneous Provisions.] ALTERNATE USE OF PEER REVIEW PANEL.

20 12-301.

21 IF A GRIEVANT'S PRINCIPAL UNIT HAS ESTABLISHED A PEER REVIEW PANEL
22 FOR GRIEVANCES IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE
23 SECRETARY, THE GRIEVANT MAY ELECT TO:

24 (1) WAIVE STEP TWO AND STEP THREE OF THE GRIEVANCE
25 PROCEDURE; AND

26 (2) SUBMIT THE GRIEVANCE TO THE PEER REVIEW PANEL AFTER STEP
27 ONE OF THE GRIEVANCE PROCEDURE.

28 12-302.

29 THE PEER REVIEW PANEL SHALL REVIEW EACH GRIEVANCE SUBMITTED TO IT
30 IN ACCORDANCE WITH ESTABLISHED PROCEDURES.

31 12-303.

32 (1) AFTER A REVIEW, THE PANEL SHALL ISSUE A WRITTEN DECISION TO
33 THE PARTIES AND MAY GRANT ANY APPROPRIATE REMEDY UNDER § 12-402(A) OF
34 THIS TITLE.

35 (2) THE DECISION OF THE PEER REVIEW PANEL IS FINAL.

154

1 SUBTITLE 4. MISCELLANEOUS PROVISIONS.

2 12-401.

3 A DECISION MAKER AT ANY STEP IN THE GRIEVANCE PROCEDURE SHALL
4 DETERMINE THE:

5 (1) PROPER INTERPRETATION OR APPLICATION OF THE POLICY,
6 PROCEDURE, OR REGULATION INVOLVED IN THE GRIEVANCE; AND

7 (2) APPROPRIATE REMEDY.

8 [10-210.] 12-402.

9 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE
10 REMEDIES AVAILABLE TO A GRIEVANT UNDER THIS TITLE ARE LIMITED TO THE
11 RESTORATION OF THE RIGHTS, PAY, STATUS, OR BENEFITS THAT THE GRIEVANT
12 OTHERWISE WOULD HAVE HAD IF THE CONTESTED POLICY, PROCEDURE, OR
13 REGULATION HAD BEEN APPLIED APPROPRIATELY AS DETERMINED BY THE FINAL
14 DECISION MAKER.

15 [(a)] (B) (1) [The Secretary] A DECISION MAKER AT STEP TWO OR STEP
16 THREE OF THE GRIEVANCE PROCEDURE may order an appointing authority to grant
17 back pay [in any grievance proceeding].

18 [(b)] (2) (I) In a reclassification grievance [proceeding in which], IF the
19 Secretary determines that the grievant is working outside of classification or in a position
20 that is improperly classified, the Secretary[, in the Secretary's discretion,] may order
21 back pay for a period not exceeding 1 year before the grievance procedure was initiated.

22 (II) A BACK PAY ORDER UNDER THIS PARAGRAPH IS SOLELY IN
23 THE DISCRETION OF THE SECRETARY.

24 [(c)] (3) [The] SUBJECT TO THE LIMITATIONS IN TITLE 14, SUBTITLE 2 OF
25 THIS ARTICLE, AN appointing authority shall carry out a back pay order issued under this
26 [section] SUBSECTION.

27 [10-301.] 12-403.

28 On conclusion of each step of a grievance proceeding, a copy of the grievance and
29 its disposition shall be given to the grievant or the grievant's representative or both.

30 [10-302.] 12-404.

31 [Similar grievances may be consolidated and processed in a single proceeding.]

32 (A) AN APPOINTING AUTHORITY, THE HEAD OF A PRINCIPAL UNIT, OR THE
33 SECRETARY MAY CONSOLIDATE MULTIPLE GRIEVANCES FILED BY ONE EMPLOYEE
34 AND PROCESS THE GRIEVANCES IN A SINGLE PROCEEDING.

35 (B) IF THE GRIEVANTS AGREE, AN APPOINTING AUTHORITY, THE HEAD OF A
36 PRINCIPAL UNIT, OR THE SECRETARY MAY THE CONSOLIDATE SIMILAR
37 GRIEVANCES AND PROCESS THE GRIEVANCES TOGETHER IN A SINGLE
38 PROCEEDING.

155

1 (C) THE OFFICE OF ADMINISTRATIVE HEARINGS MAY CONSOLIDATE AND
2 PROCESS IN A SINGLE PROCEEDING MULTIPLE GRIEVANCES FILED BY ONE
3 EMPLOYEE OR SIMILAR GRIEVANCES FILED BY MORE THAN ONE GRIEVANT.

4 [10-304.] 12-405.

5 [(a) On the informal presentation of a grievance or the initiation of a grievance
6 proceeding, an employee designated as a grievant's representative may not lose pay for
7 investigating, processing, or testifying at any stage of the grievance proceeding.]

8 (A) A GRIEVANT AND THE GRIEVANT'S REPRESENTATIVE SHALL BE GIVEN
9 REASONABLE TIME DURING WORK TO INVESTIGATE AND PROCESS THE GRIEVANCE
10 AND TO PARTICIPATE AT ANY CONFERENCE OR HEARING RELATING TO THE
11 GRIEVANCE.

12 (b) An employee shall be granted release time from the employee's normal work
13 schedule to attend a grievance conference or hearing as a witness.

14 (c) Expenses incurred in connection with attendance by an employee at grievance
15 conferences or hearings, whether as a grievant, as a grievant's representative, or as a
16 witness, shall be borne by that employee's unit.

17 [Title 12. Short-Term Employment; Service Contracts.]

18 TITLE 13. CONTRACTUAL EMPLOYMENT AND SERVICE CONTRACTS IN EXECUTIVE
19 BRANCH.

20 Subtitle 1. [Emergency and Temporary Extra Employees.] CONTRACTUAL
21 EMPLOYEE DEFINED.

22 [12-101.

23 (a) (1) An appointing authority or an officer or employee authorized by the
24 appointing authority may make an emergency appointment of a qualified individual who
25 has not been certified by the Secretary if:

26 (i) time does not allow for consent of the Secretary or for the
27 certification of a list of eligible candidates; and

28 (ii) the appointment is necessary to prevent stoppage of public
29 business during an emergency.

30 (2) The appointing authority or officer promptly shall report the emergency
31 appointment to the Secretary.

32 (b) (1) Except as provided in paragraph (2) of this subsection, an emergency
33 appointment under this section may not exceed 60 days and may not be renewed.

34 (2) If a position for which an emergency appointment is made cannot
35 otherwise be filled when the period of the emergency appointment ends, the Secretary
36 may extend the appointment for the duration of:

37 (i) any war in which the United States is engaged;

156

1 (ii) any nationally declared emergency; or

2 (iii) after a war or nationally declared emergency has ended, any period
3 for which the Secretary, with approval of the Governor, finds that an emergency still
4 exists.]

5 [12-102.

6 (a) If an extra position is needed for 6 months or less because of pressure from
7 work, an appointing authority may request the Secretary to authorize the appointment of
8 a temporary extra employee.

9 (b) The request shall state:

10 (1) the duties to be performed; and

11 (2) the probable length of employment.

12 (c) The Secretary may authorize the appointing authority to appoint, with or
13 without a competitive examination, any qualified individual to the position as a temporary
14 extra employee.

15 (d) A unit may appoint an individual to be a temporary extra employee to a
16 position in a class unique to that unit without making a request to the Secretary.

17 (e) The appointment of a temporary extra employee under this section:

18 (1) may not exceed 6 months; and

19 (2) to the extent practicable, shall be made from a list of eligible
20 candidates.]

21 13-101.

22 (A) IN THIS TITLE, "CONTRACTUAL EMPLOYEE" MEANS AN INDIVIDUAL:

23 (1) WHO, UNDER A WRITTEN AGREEMENT, PROVIDES TEMPORARY
24 PERSONAL SERVICES TO THE STATE FOR PAY;

25 (2) WHO IS NOT EMPLOYED IN A BUDGETED POSITION; AND

26 (3) WHO HAS AN EMPLOYER-EMPLOYEE RELATIONSHIP WITH THE
27 STATE IN WHICH THE STATE:

28 (I) FURNISHES NECESSARY TOOLS AND A PLACE TO WORK;

29 (II) HAS THE RIGHT TO CONTROL AND DIRECT THE DETAILS,
30 MEANS, AND RESULTS OF THE PERFORMANCE OF THE SERVICES; AND

31 (III) HAS THE RIGHT TO DISCHARGE THE INDIVIDUAL FROM
32 EMPLOYMENT.

33 (B) "CONTRACTUAL EMPLOYEE" DOES NOT INCLUDE AN INDIVIDUAL WHO IS
34 EMPLOYED AS:

35 (1) AN EMPLOYEE IN THE:

157

- 1 (I) SKILLED SERVICE;
- 2 (II) PROFESSIONAL SERVICE;
- 3 (III) MANAGEMENT SERVICE; OR
- 4 (IV) EXECUTIVE SERVICE; OR
- 5 (2) AN EMERGENCY EMPLOYEE.

6 Subtitle 2. Contractual Employees Generally.

7 [12-201.] 13-201.

8 (a) This subtitle applies to all units in the executive branch of State government,
9 except [any] A unit with an independent personnel system.

10 (b) The Secretary may exempt specific types of contractual employees from the
11 certification and other requirements of this subtitle.

12 [12-202.] 13-202.

13 (a) Except as otherwise authorized under [§ 12-201(b)] § 13-201(B) of this
14 subtitle, a unit may not execute or renew a contract for the employment of a contractual
15 employee unless the Secretary issues to the unit a certification that:

16 (1) the employment of the contractual employee is for services that cannot
17 be performed by assignment or hiring of [a classified service or unclassified service] ANY
18 NONTEMPORARY employee;

19 (2) the rate of pay for the contractual employee is comparable to the rate
20 paid to [classified service or unclassified service] employees in positions that involve
21 comparable duties, responsibilities, experience, and authority; and

22 (3) the services to be performed under the contract encompass functions
23 that:

24 (i) are infrequent;

25 (ii) are needed for a limited time;

26 (iii) are unusual; or

27 (iv) need to be implemented quickly and for which there is no
28 reasonable alternative.

29 (b) The Secretary may issue a certification for any effective period that does not
30 exceed the period of the contract between the unit and the contractual employee.

31 [12-203.] 13-203.

32 (a) The Secretary shall adopt guidelines for the recruitment and selection of
33 contractual employees.

34 (b) These guidelines shall require a contracting unit:

158

1 (1) to make a reasonable effort to publicly solicit applicants for contractual
2 employment;

3 (2) to make a reasonable effort to screen and select contractual employees
4 by using methods and criteria that are uniformly applied to all applicants for a particular
5 instance of contractual employment; and

6 (3) to use criteria to select contractual employees that:

7 (i) are based on the qualifications of the applicant; and

8 (ii) conform to subsection (c) of this section.

9 (c) [(1) Except as provided in paragraph (2) of this subsection, each contracting
10 unit shall select contractual employees without regard to:

11 (i) age;

12 (ii) ancestry;

13 (iii) color;

14 (iv) creed;

15 (v) marital status;

16 (vi) mental or physical disability;

17 (vii) national origin;

18 (viii) political affiliation, belief, or opinion;

19 (ix) race;

20 (x) religious affiliation, belief, or opinion; or

21 (xi) sex.]

22 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ALL
23 PERSONNEL ACTIONS CONCERNING A CONTRACTUAL EMPLOYEE SHALL BE MADE
24 WITHOUT REGARD TO ANY FACTOR LISTED IN § 2-402 OF THIS ARTICLE.

25 (2) An action may be taken with regard to age, sex, or disability to the extent
26 that age, sex, or disability involves a bona fide occupational qualification.

27 (d) To the extent feasible, a unit shall conduct the recruitment and selection of
28 contractual employees according to the guidelines adopted under this section.

29 [12-204.] 13-204.

30 Except as authorized under [§ 12-303] § 13-303 of this title, the Secretary may not
31 continue certification for any contractual employee if the Secretary determines that the
32 services performed under the contract:

33 (1) encompass permanent functions;

34 (2) have no specific expiration date; and

159

1 (3) regularly are performed on a basis that is at least equal to 50 of the work
2 responsibility of a full-time permanent employee.

3 [12-205.] 13-205.

4 (a) The Secretary periodically shall audit a sample of instances of contractual
5 employment in the various units to determine whether:

6 (1) justification exists in each instance to continue certification for the
7 contractual employee; and

8 (2) the guidelines adopted under [§ 12-203] § 13-203 of this subtitle have
9 been followed.

10 (b) (1) If, as a result of an audit, the Secretary determines that services
11 performed by a contractual employee should be performed by a permanent employee, the
12 Secretary shall:

13 (i) refuse to renew the certification for the contractual employee; and

14 (ii) recommend to the Department of Budget and Fiscal Planning that
15 a position for a permanent employee be established.

16 (2) If, as a result of an audit, the Secretary determines that a unit has not
17 complied with the guidelines adopted under [§ 12-203] § 13-203 of this subtitle, the
18 Secretary shall:

19 (i) advise the unit of the nature of the noncompliance; and

20 (ii) suggest alternate criteria or methods that would have complied
21 with the guidelines.

22 [Title 5. Part-Time Employment.]

23 [5-101.

24 In this title, "part-time" means work on at least 2 days per workweek, for not less
25 than 50% nor more than 80% of the regular workweek.]

26 [5-102.

27 This title applies to all permanent positions in units in the executive branch of State
28 government, including any unit with an independent personnel system.]

29 [5-103.

30 This title does not authorize the hiring of any part-time employee to perform work
31 that is not authorized by law to be performed by a State employee.]

32 [5-104.

33 (a) It is the policy of this State that, except as provided in subsection (b) of this
34 section, at least 5% of the positions in all units subject to this title, at each pay grade in
35 those units, shall be available for employment on a part-time basis to individuals who
36 cannot or choose not to work full time.

160

1 (b) (1) The Secretary may waive the provisions of subsection (a) of this section
2 to the extent that the Secretary determines that those provisions conflict with the efficient
3 performance of the State's personnel force.

4 (2) On request of a unit, the Secretary may reduce the percentage of
5 part-time positions for that unit if:

6 (i) the unit is undergoing a substantial reduction in force; or

7 (ii) the Secretary finds that compliance with subsection (a) of this
8 section would:

9 1. materially impair the ability of the unit to perform its
10 responsibilities; or

11 2. severely impair the unit's efficiency.

12 (c) (1) Except as provided in paragraph (2) of this subsection, the aggregate
13 number of part-time classified service positions in all units subject to this title may not
14 exceed 5% of the aggregate number of all classified service positions in those units.

15 (2) The maximum imposed by paragraph (1) of this subsection does not
16 apply to soil conservation district employees who are employed in part-time classified
17 service positions under § 8-203(e) of the Agriculture Article.]

18 [5-105.

19 (a) An individual who is a full-time employee or who is qualified for or desires to
20 be a full-time employee may not be required to accept part-time employment as a
21 condition of continued or new State employment.

22 (b) (1) An appointment to a part-time position in the classified service is
23 subject to Title 4 of this article.

24 (2) An individual who is employed on a part-time basis shall meet the
25 standards and requirements normally required of a full-time employee in a similar
26 position with a similar grade and length of employment.

27 (c) In accordance with regulations adopted by the Secretary, a part-time
28 employee is entitled to receive all employment rights, privileges, and benefits that are
29 normally available to a full-time employee in a similar position with a similar grade and
30 length of service, prorated in proportion to the number of hours employed.]

31 [5-106.

32 (a) The Department shall administer this title in substantial compliance with the
33 standards of the Employment Standards Administration of the United States Department
34 of Labor.

35 (b) The Secretary shall adopt regulations to carry out this title.

36 (c) (1) The Department shall consider the welfare of employees in each unit of
37 State government that is subject to this title.

38 (2) The Department shall:

161

1 (i) conduct research and experimentation projects and any other
2 activities designed to advance opportunities for part-time employment in the public
3 sector;

4 (ii) encourage all public employers to adopt part-time employment
5 practices; and

6 (iii) promote and supervise programs for part-time employment in
7 units in the executive branch of State government.]

8 [5-107.

9 (a) (1) Each unit subject to this title shall adopt and maintain procedures,
10 conduct continuous activities and projects, and take other appropriate measures to carry
11 out this title.

12 (2) The Secretary shall administer a program to assist those units in carrying
13 out this title.

14 (b) (1) Each unit subject to this title shall report quarterly to the Secretary on
15 the procedures, activities, projects, and other efforts undertaken to meet the
16 requirements of this title.

17 (2) The reports shall:

18 (i) document the extent to which the requirements have been fulfilled;
19 and

20 (ii) explain any impediments to compliance with this title and
21 measures taken to remove those impediments.]

22 Subtitle 3. Transfers of Contractual Employees to Budgeted Positions.

23 [12-301.] 13-301.

24 This subtitle applies to all units in the executive branch of State government, except
25 [any] A unit with an independent personnel system.

26 [12-302.] 13-302.

27 If a contractual position is replaced by a budgeted position [in the classified service
28 or unclassified service], the contractual employee in the contractual position may transfer
29 to the budgeted position, if the employee:

30 (1) has at least 24 continuous months of satisfactory service as of the date on
31 which the replacement occurs;

32 (2) has received a favorable performance evaluation by the appointing
33 authority; and

34 (3) has passed the examination, if one is required, for the class in which the
35 budgeted position is placed.

162

1 [12-303.] 13-303.

2 To enable a contractual employee to participate in any required examination for a
3 budgeted position under this subtitle, the Secretary may certify the continuation of the
4 employee's contract for a maximum period of 1 year after the date on which the budgeted
5 position is created.

6 [12-304.] 13-304.

7 (a) A contractual employee who transfers to a budgeted position under this
8 subtitle shall be given credit for service in the contractual position for the purpose of
9 establishing:

10 (1) steps in the pay grade applicable to the budgeted position;

11 (2) annual leave; and

12 (3) seniority rights.

13 (b) A contractual employee who transfers to a budgeted position under this
14 subtitle shall become a member of the Employees' Pension System of the State of
15 Maryland.

16 [12-305.] 13-305.

17 This subtitle does not preclude the General Assembly from prohibiting the creation
18 of a budgeted position or the replacement of a contractual position with a budgeted
19 position in the State budget.

20 Subtitle 4. Service Contracts.

21 [12-401.] 13-401.

22 (a) In this subtitle the following words have the meanings indicated.

23 (b) "Departments" means the Department of Budget and Fiscal Planning and the
24 Department of Personnel.

25 (c) "Service contract" means a procurement contract for services that:

26 (1) will be provided to a unit in the executive branch of State government;

27 (2) will be performed within a State-operated facility; and

28 (3) in the estimation of the procurement officer, will exceed an annual cost
29 of \$100,000.

30 (d) "Services" has the meaning stated in § 11-101 of the State Finance and
31 Procurement Article.

32 [(e) "Unit" has the meaning stated in § 11-101 of the State Finance and
33 Procurement Article.]

163

1 [12-402.] 13-402.

2 The policy of this State is to use State employees to perform all State functions in
3 State-operated facilities in preference to contracting with the privatesector to perform
4 those functions.

5 [12-403.] 13-403.

6 (a) A service contract may be entered into only as approved by the Board of
7 Public Works in accordance with this subtitle.

8 (b) Except as provided in subsection (c) of this section, the Board of Public Works
9 may approve a service contract for a unit only if the Board receives a certification from
10 each of the departments that:

11 (1) the service contract is exempt under [§ 12-404(b)] § 13-404(B) of this
12 subtitle; or

13 (2) the unit has complied with the requirements of [§ 12-404(c)] §
14 13-404(C) of this subtitle.

15 (c) If the General Assembly authorizes or requires that certain services be
16 performed by an independent contractor, the Board of Public Works may approve a
17 service contract for those services without the certification required by subsection (b) of
18 this section.

19 [12-404.] 13-404.

20 (a) The departments may certify a service contract to the Board of Public Works
21 as provided in this section.

22 (b) The departments may certify a service contract as being exempt from the
23 preference stated in [§ 12-402] § 13-402 of this subtitle if:

24 (1) state employees are not available to perform the services;

25 (2) a conflict of interest would result if a State employee were to perform
26 the services;

27 (3) the nature of the services meets the standards set by the Department of
28 Personnel for emergency appointments;

29 (4) the services are incidental to the purchase or lease of personal property
30 or real property, such as a service agreement that is part of the purchase or rental of
31 computers or office equipment; or

32 (5) a clear need exists to obtain an unbiased finding or opinion, such as an
33 expert witness in litigation.

34 (c) The departments may certify a service contract that is not exempt under
35 subsection (b) of this section only if:

36 (1) the unit that seeks to enter into the service contract has complied with
37 [§ 12-405] § 13-405 of this subtitle; and

164

1 (2) the departments find that:

2 (i) the potential economic advantage of entering into the service
3 contract is not outweighed by the preference stated in [§ 12-402] § 13-402 of this subtitle;

4 (ii) the service contract does not adversely affect the affirmative action
5 efforts of this State;

6 (iii) the service contract includes adequate control mechanisms to
7 ensure that the services will be performed in accordance with the service contract; and

8 (iv) the service contract complies with all of the requirements of
9 Division II of the State Finance and Procurement Article.

10 [12-405.] 13-405.

11 (a) A unit that seeks to enter into a service contract that is not exempt under [§
12 12-403(c)] § 13-403(C) or [§ 12-404(b)] § 13-404(B) of this subtitle shall submit to the
13 departments the information required by this section.

14 (b) The unit shall submit a demonstration that the unit has taken formal and
15 positive steps to consider alternatives to the service contract, including reorganization,
16 reevaluation of service, and reevaluation of performance.

17 (c) (1) The unit shall submit calculations that:

18 (i) compare the cost of the service contract with the cost of using
19 State employees; and

20 (ii) show savings to this State, over the duration of the service contract,
21 of 20% of the contract or \$200,000, whichever is less.

22 (2) In calculating the cost comparison required by this subsection, a unit
23 shall include:

24 (i) direct costs, including fringe benefits;

25 (ii) indirect overhead costs, including the proportional share of
26 existing administrative salaries and benefits, rent, equipment costs, utilities, and
27 materials, but only to the extent that those costs are attributed solely to the service in
28 question and would not exist if the service were not performed by State employees;

29 (iii) any continuing or transitional costs that would be directly
30 associated with contracting for the services, including unemployment compensation and
31 the cost of transitional services; and

32 (iv) additional costs of performance of the services by State employees,
33 including salaries and benefits of additional staff and the cost of additional space,
34 equipment, and materials needed to perform the services.

35 (d) (1) The unit shall submit a formal plan of assistance for all State employees
36 who will be adversely affected by the service contract.

37 (2) The plan of assistance shall include:

165

1 (i) efforts to place affected employees in vacant positions in the unit
2 or in another unit;

3 (ii) provisions in the service contract, if feasible, for the hiring by the
4 contractor of displaced employees; and

5 (iii) prior notification to affected employees by the earlier of:

6 1. the day the contract is signed; or

7 2. 6 months before the day the adverse effect will occur.

8 Title 14. Enforcement.

9 Subtitle 1. Civil Actions.

10 14-101.

11 The Secretary shall:

12 (1) bring any civil action necessary to enforce those provisions of this
13 Division I that are subject to the authority of the Secretary or any regulation adopted
14 under them; and

15 (2) defend any civil action brought against the Secretary or the Department.

16 14-102.

17 (a) A resident of this State may bring an action in a court of competent
18 jurisdiction:

19 (1) to recover, for the use of this State, a payment made in violation of this
20 Division I or of a regulation adopted under it from the person who authorized or made
21 the payment;

22 (2) to enjoin a person, this State, or a unit of this State from authorizing a
23 payment in violation of this Division I or of a regulation adopted under it; or

24 (3) if a payroll authorization is provided for by law or regulation, to enjoin
25 the Secretary from issuing a payroll authorization in violation of this Division I or of a
26 regulation adopted under it.

27 (b) In an action brought under this section, a judgment or other order may not be
28 recorded as "released" or "satisfied" unless the Attorney General files with the court a
29 notice of release or satisfaction.

30 14-103.

31 Except as otherwise specifically provided by State law, this State, its officers, and its
32 units may not raise the defense of sovereign immunity in any administrative, arbitration,
33 or judicial proceeding involving an employee grievance or hearing that is held under:

34 (1) this Division I or a regulation adopted under it; or

166

1 (2) a personnel policy or regulation that governs classified employees of the
2 University of Maryland System or Morgan State University.

3 SUBTITLE 2. SATISFACTION OF AWARDS.

4 [14-104.] 14-201.

5 [(a)] In this [section] SUBTITLE, "award" means a final monetary or benefit
6 award or judgment in an administrative, arbitration, or judicial proceeding involving an
7 employee grievance or hearing that is held under:

8 (1) this Division I or a regulation adopted under it; or

9 (2) a personnel policy or regulation that governs classified employees of the
10 University of Maryland System or Morgan State University.

11 [(b)] 14-202.

12 If this State has sufficient money available at the time, an award made against this
13 State or an officer or unit of this State shall be paid as soon as practicable within 20 days
14 after the award is final.

15 [(c)] 14-203.

16 [(1)] (A) If sufficient money is not available at the time to satisfy an award
17 made against this State or an officer or unit of this State, the affected unit or officer shall
18 report the outstanding award to the State Comptroller.

19 [(2)] (B) The Comptroller shall:

20 [(i)] (1) keep an accounting of all outstanding awards; and

21 [(ii)] (2) report that accounting annually to the Governor.

22 14-204.

23 [(3)] (A) The Governor shall include in the State budget sufficient money to
24 pay all awards made against this State or an officer or unit of this State.

25 [(4)] (B) On appropriation of money by the General Assembly, the
26 Comptroller shall authorize payment of all outstanding awards in the order of the date on
27 which each award was made.

28 [Title 13. Miscellaneous Prohibited Acts.]

29 TITLE 15. PROHIBITED ACTS AND PENALTIES.

30 SUBTITLE 1. PROHIBITED ACTS.

31 [13-101.] 15-101.

32 A person may not impersonate another in an examination held under this Division
33 I.

167

1 [13-102.] 15-102.

2 A person may not:

3 (1) willfully deceive another about the right to take an examination under
4 this Division I; or

5 (2) willfully interfere with the right of an individual to take an examination
6 under this Division I.

7 [13-103.] 15-103.

8 A person may not willfully falsify:

9 (1) an answer on an examination held under this Division I;

10 (2) a grade or mark on an examination held under this Division I;

11 (3) a report on the results of an examination held under this Division I; or

12 (4) a report on the standing of an individual examined under this Division I.

13 [13-104.] 15-104.

14 An applicant for employment may not act deceptively in order to improve the
15 applicant's chances for appointment.

16 [13-105.] 15-105.

17 [Unless responding to an inquiry from the Secretary, a] A person may not willfully
18 give TO AN INDIVIDUAL any [special] information [to an individual] ABOUT A
19 COMPETITIVE EXAMINATION UNDER THIS ARTICLE THAT IS NOT GENERALLY
20 AVAILABLE TO ALL COMPETITORS FOR THE EXAMINATION in order to improve or to
21 harm the individual's rating for appointment.

22 [13-106.] 15-106.

23 A person may not use or promise to use the person's influence or official authority
24 to secure an appointment OR AN OPPORTUNITY FOR AN APPOINTMENT to a [classified
25 service] position IN THE SKILLED SERVICE OR PROFESSIONAL SERVICE [or an
26 opportunity for an appointment to a classified service position] in exchange or as a
27 reward for personal service or political service.

28 [13-107.] 15-107.

29 An employee or public official of this State may not use a threat or coercion to
30 induce or attempt to induce [a classified] AN EMPLOYEE IN THE SKILLED SERVICE OR
31 PROFESSIONAL service employee:

32 (1) to resign;

33 (2) to take a leave of absence; or

34 (3) to waive a right granted by this Division I.

168

1 [13-108.] 15-108.

2 A person may not willfully assist another to commit an act prohibited by this
3 subtitle.

4 Subtitle 2. Criminal Penalties.

5 [14-201.] 15-201.

6 Any person who violates [any provision of this Division I] SUBTITLE 1 OF THIS
7 TITLE or [of] any regulation adopted under it is guilty of a misdemeanor and, on
8 conviction, is subject to a fine not exceeding \$3,000 or imprisonment not exceeding 6
9 months or both.

10 TITLES 16-19. RESERVED.

11 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 7 of Chapter
12 614 of the Acts of the General Assembly of 1993 be repealed.

13 SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 16 of Chapter
14 10 of the Acts of the General Assembly of 1993, as amended by Chapter 614 of the Acts
15 of the General Assembly of 1993 be repealed.

16 SECTION 4. AND BE IT FURTHER ENACTED, That § 9-205(a)(2) of the
17 State Personnel and Pensions Article, as enacted by this Act, does not apply to
18 compensatory time earned on or before June 30, 1989.

19 SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland
20 read as follows:

21 1. Legislative Joint Committee on Fair Practices.

22 (a) There is a Joint Committee on Fair Practices, which has oversight over
23 matters in State government of equal employment opportunity policies and practices and
24 procurement practices made under Executive Order.

25 (b) The Joint Committee shall be comprised of:

26 (1) three members of the Senate, appointed by the President of the Senate;
27 and

28 (2) three members of the House of Delegates, appointed by the Speaker of
29 the House.

30 (c) The purpose of the Joint Committee shall be to:

31 (1) review reports;

32 (2) evaluate the effectiveness of programs, policies, and practices; and

33 (3) identify areas of concern, and, as appropriate, recommend corrective
34 measures to the Governor and the General Assembly.

35 2. Telecommuting pilot program.

1 (a) The Governor shall establish a statewide telecommuting pilot program to
2 allow State employees to perform employment duties at work sites other than a State
3 office through the use of telecommunications technology.

4 (b) The Secretary shall:

5 (1) adopt guidelines and policies to establish and carry out the purpose of
6 the pilot program; and

7 (2) on or before October 1, 1996, submit a report to the Senate Budget and
8 Taxation Committee and the House Appropriations Committee concerning the effect of
9 the pilot program within each of the units that participates in the program.

10 SECTION 6. AND BE IT FURTHER ENACTED, That at the end of June 30,
11 1997, and with no further action required by the General Assembly, Title 9, Subtitle 12 of
12 the State Personnel and Pensions Article, as enacted by this Act, shall be void and of no
13 further effect.

14 SECTION 7. AND BE IT FURTHER ENACTED, That this Act is not intended to
15 change the status as of the effective date of this Act of any employee, official, or position
16 from the State Personnel Management System or any other personnel system to a
17 different personnel system.

18 SECTION 8. AND BE IT FURTHER ENACTED, That subject to the approval of
19 the Director of the Department of Legislative Reference, the publishers of the Annotated
20 Code of Maryland shall propose the correction of cross-references that are rendered
21 incorrect by this Act.

22 SECTION 9. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 1996.