
By: **Senator Mitchell**
Introduced and read first time: February 3, 2000
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **State Personnel - Appeals of Disciplinary Actions - Executive Service and**
3 **Management Service Employees**

4 FOR the purpose of altering the procedures by which employees in the executive
5 service and the management service of the State Personnel Management
6 System may appeal a disciplinary action; and generally relating to appeals of
7 disciplinary actions by State employees.

8 BY repealing and reenacting, with amendments,
9 Article - State Personnel and Pensions
10 Section 11-109 and 11-113
11 Annotated Code of Maryland
12 (1997 Replacement Volume and 1999 Supplement)

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

15 **Article - State Personnel and Pensions**

16 11-109.

17 (a) (1) Except as provided in paragraph (2) of this subsection, this section
18 applies [only] to employees in the EXECUTIVE SERVICE, THE MANAGEMENT
19 SERVICE, THE skilled service [or], AND the professional service.

20 (2) This section does not apply to an employee under a special
21 appointment described in § 6-405 of this article.

22 (b) (1) Except as provided in paragraph (3) of this subsection, an employee
23 [in the skilled service or the professional service] may appeal a disciplinary action
24 taken while the employee is on probation only on the basis that the action was illegal
25 or unconstitutional.

26 (2) The employee has the burden of proof in an appeal under this
27 subsection.

1 (3) The limitations in paragraphs (1) and (2) of this subsection do not
2 apply to an employee [in the skilled service or the professional service] who is on
3 probation following a promotion or reinstatement.

4 (c) (1) An employee or an employee's representative may file with the head
5 of the principal unit a written appeal of a disciplinary action that states, to the extent
6 possible, the issues of fact and law that the employee believes would warrant
7 rescinding the disciplinary action.

8 (2) An appeal under this subtitle must be filed within 15 days after the
9 employee receives notice of the appointing authority's action.

10 (d) The head of the principal unit may confer with the employee before making
11 a decision.

12 (e) (1) The head of the principal unit may:

13 (i) uphold the disciplinary action; or

14 (ii) rescind or modify the disciplinary action taken and restore to
15 the employee any lost time, compensation, status, or benefits.

16 (2) Within 15 days after receiving an appeal, the head of the principal
17 unit shall issue to the employee a written decision that addresses each point raised in
18 the appeal.

19 11-113.

20 (a) This section only applies to an employee[:

21 (1) in the management service;

22 (2) in executive service; or

23 (3)] under a special appointment described in § 6-405 of this article.

24 (b) (1) An employee or an employee's representative may file a written
25 appeal of a disciplinary action with the head of the principal unit.

26 (2) An appeal:

27 (i) must be filed within 15 days after the employee receives notice
28 of the disciplinary action; and

29 (ii) may only be based on the grounds that the disciplinary action is
30 illegal or unconstitutional.

31 (3) The employee has the burden of proof in an appeal under this section.

32 (c) The head of the principal unit may confer with the employee before making
33 a decision.

- 1 (d) (1) The head of the principal unit may:
- 2 (i) uphold the disciplinary action; or
- 3 (ii) rescind or modify the disciplinary action and restore to the
4 employee any lost time, compensation, status, or benefits.
- 5 (2) Within 15 days after receiving an appeal, the head of the principal
6 unit shall issue the employee a written decision.
- 7 (3) The decision of the head of the principal unit is the final
8 administrative decision.
- 9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2000.