

Department of Legislative Services  
Maryland General Assembly  
2023 Session

FISCAL AND POLICY NOTE  
Third Reader

Senate Bill 494

(Senator Gile)

Finance

Appropriations

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Maryland State Department of Education - Employee Status and Designation

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This bill requires the Secretary of Budget and Management, by January 1, 2024, to (1) assign each employee in the Maryland State Department of Education (MSDE) to the State Personnel Management System (SPMS), as specified, except for employees that are *bona fide* special appointments and (2) assign each employee in the professional service and skilled service to the appropriate bargaining unit. Any affected employee must suffer no diminution of pay or benefits resulting from the assignment and, in the course of the assignment, may be placed on a new salary schedule only at a grade and step that results in a greater annual rate of pay. **The bill takes effect July 1, 2023.**

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Fiscal Summary

**State Effect:** The bill's changes can be handled with existing budgeted resources. This assessment does not, however, include any potential increased personnel costs associated with collective bargaining, which cannot be reliably predicted. Revenues are not affected.

**Local Effect:** None.

**Small Business Effect:** None.

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Analysis

**Current Law:**

*Employment Categories in the State Personnel Management System*

SPMS has four major employment categories designated in statute:

- executive service, which consists of chief administrators of principal units or comparable positions, including deputy secretaries or assistant secretaries;
- management service, which consists of positions that involve direct responsibility for the oversight and management of personnel and financial resources and that require the exercise of discretion and independent judgment;
- professional service, which consists of positions that require advanced knowledge in a field of science or learning and that normally require a professional license, advanced degree, or both; and
- skilled service, which consists of all other positions.

Classification of skilled, professional, management, and executive service positions in SPMS is the responsibility of the Secretary of Budget and Management. The Secretary must likewise establish the standards and procedures used to classify positions in the skilled, professional, management, and executive services and provide advice and guidance on their use.

The head of a principal unit may classify positions in the unit, in accordance with the Secretary of Budget and Management's established standards and procedures, if the Secretary chooses to delegate the classification authority. If the Secretary delegates the classification authority to the head of a principal unit, that person must prepare a position classification plan for the Secretary's approval and classify all positions in accordance with the approved plan. The Secretary must conduct a position classification audit at least once every three years but only if the classification activity was delegated to the head of a principal unit. The Secretary may conduct operational audits of classification practices and records in principal units once every three years.

A temporary employee is not classified in the skilled, professional, management, or executive service in SPMS.

### *Special Appointments*

Special appointments within SPMS are employees who;

- are appointed directly by the Governor to a position that is not provided for in the State Constitution;
- are appointed directly by the Board of Public Works;
- as determined by the Secretary of Budget and Management, perform a significant policy role or provide direct support to a member of the executive service;
- are assigned to the Government House (the Governor's residence);
- are assigned to the Governor's office; or
- are in positions specified by law to be special appointments.

Collective bargaining laws do not apply to special appointments. Special appointments are the only positions in the Executive Branch that may be filled with regard to political affiliation, but most are not. Positions that may be filled with regard to political affiliation must be so designated and disclosed to the appointee.

### *Maryland State Department of Education Employee Reclassification*

Chapter 645 of 2019 generally reclassified special appointment positions within MSDE, except those who perform a significant policy role or provide direct support to a member of the executive service, to positions in the professional or skilled service under SPMS. In doing so, the employees were no longer at-will and became eligible for collective bargaining. MSDE advises that 87 of the positions were not correctly updated, and it is currently working with the Department of Budget and Management to ensure the affected employees and positions are correctly categorized.

**State Expenditures:** Typically, at-will employees cannot be converted to skilled or professional service positions if they were not hired in a merit-protected position through a competitive process specified in statute. Accordingly, it is unclear whether positions held by existing employees can be reclassified. If not, these positions can only be reclassified when they become vacant. MSDE estimates that 350 positions within MSDE are subject to reclassification under the bill as these employees were hired before the enactment of Chapter 645 and, therefore, have not been reclassified in SPMS because their positions have not become vacant.

As noted, it is unclear whether currently filled positions can be reclassified, or whether these positions can only be reclassified as they become vacant. Nonetheless, MSDE can handle any additional employee relations activity that may result from the reclassification with existing budgeted resources. Any impact on personnel costs arising from collective bargaining, however, cannot be reliably predicted.

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### **Additional Information**

**Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** HB 579 (Delegate Henson) - Appropriations.

**Information Source(s):** Maryland State Department of Education; Department of Budget and Management; Department of Legislative Services

**Fiscal Note History:** First Reader - March 1, 2023  
km/mcr Third Reader - March 16, 2023

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