

SB 494_FAV_AFSCME.pdf

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Patrick Moran - President

**SB494- Maryland State Department of Education -Employee Status and Designation
Appropriations Committee
March 29th, 2023
Favorable**

AFSCME Council 3 supports SB 494. This legislation converts employees who work at the Maryland State Department of Education (MSDE) and who are currently misclassified as “at-will” special appointees, into merit positions within the state personnel management system (SPMS) and places them within their appropriate bargaining units. This will mean that they finally have due process rights and access to the grievance procedure, as well as union rights and an ability to collectively bargain.

These employees are clerical employees, licensing specialists, caseworkers, etc. who would have these merit rights if they worked in any other state agency, but they were hired at the MSDE at a time when all employees were hired in as special appointees. They receive state health and pension benefits, they just don’t receive due process rights.

State Personnel and Pensions Article 6-405 places the following criteria for special appointments;

- (1) a position to which an individual is directly appointed by the Governor by an appointment that is not provided for by the Maryland Constitution;
- (2) a position to which an individual is directly appointed by the Board of Public Works;
- (3) as determined by the Secretary, a position which performs a significant policy role or provides direct support to a member of the executive service;
- (4) a position that is assigned to the Government House;
- (5) a position that is assigned to the Governor’s Office; and
- (6) any other position that is specified by law to be a special appointment.

For special appointees who aren’t directly appointed by the Governor or Board of Public Works, or who don’t work in Government House or in the Governor’s Office, or don’t play a significant policy role or a direct support role to a member of the executive service — the decision to keep them at-will special appointees is just a policy decision.

Every AFSCME Maryland State and University contract guarantees a right to union representation.
An employee has the right to a union representative if requested by the employee.
800.492.1996

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The merit system provides more than just “for cause” terminations. It also guarantees merit employees:

- Reinstatement rights should there be a layoff.
- A fair process for promotions and training employees
- A Transparent hiring processes.
- The right to seek damages if there’s a paycheck error that goes unresolved.
- The right to a grievance procedure to resolve disputes and so on.

Prior to 2019, the legislator recognized a substantial number of state employees were considered “at-will” at MSDE. In 2019, the legislature changed this practice when they required all new hires at MSDE to be merit through the passage of [HB 390/CH645 \(2019\)](#) . This legislation only impacted new hires since July 1, 2019. As a result, employees hired as special appointees prior to July 1, 2019, are now working alongside peers who do the same work, have less seniority, but have more rights now. We believe this quite unfair and this needs to be rectified.

Ultimately, SB 494 is about fairness for those “at-will” employees a MSDE who stand to benefit from this legislation and have been denied merit stands for too long with other protection and benefits their co-worker have. SB 494 can helps ensure they get that protection at the workplace. We urge the committee to provide a favorable recommendation on SB 494.

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Uploaded by: Felicia Hawkins

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**Written Testimony Submitted to the
Appropriations Committee
SB 494 – Maryland State Department of Education – Employee Status and Designation
March 29, 2023**

FAVORABLE

Chair Barnes and Members of the Appropriations Committee. My name is Felicia Hawkins, Director of Operations for the Maryland Professional Employees Council (MPEC), AFT Local 6197, the certified collective bargaining agent for professional state employees classified in unit G. MPEC calls for a favorable report to SB 494, the bill that will fix the error that caused numerous Maryland State Department of Education Employees to be classified as special appointments, temporary, or contractual employees, thereby barring them from the collective bargaining rights enjoyed by other state employees.

This bill will direct the Department of Budget and Management to, by January 1, 2024, to assign all employees who are not bona fide special, emergency, or temporary employees to regular status within the state personnel and management system and place them in the appropriate bargaining unit for the purposes of collective bargaining.

Members of the committee, under the previous administration, misclassification of state workers was a very common problem. The letter-of-the-law stipulates that special appointments and temporary contractual employees are positions that must be filled in emergency cases only when no other regular position can fill them, or a position that is only needed for a calendar year. We found state agencies classifying regular permanent full-time positions as special appointments and hiring contractual employees to keep them in long-term contractual status. This employment practice has barred these employees from the benefits and protections negotiated by the unions and management in the collective bargaining agreements. The State Dept. of Education is notorious for its unfair and unethical treatment of its employees. Numerous MSDE employees are left with no recourse because they serve at the pleasure of the appointing authority as a special appointment or long-term contractual employee.

For these reasons, MPEC again calls for a favorable report to SB 494.

Thank you,

