



SENATE FINANCE COMMITTEE
Senate Bill 79
State Personnel – Education and Transportation – Grievance Procedures
February 2, 2023
Favorable with Amendment

Chair Griffith, Vice Chair Klausmeier and members of the committee, thank you for the opportunity to offer testimony on Senate Bill 79.

Senate Bill 79, as written, would have a substantial negative impact on the University System of Maryland (USM) and its constituent institutions. The USM’s long-standing grievance procedure is codified under Title 13, subtitle 2 of the Education Article and referenced in USM [BOR Policy VII – 8.00](#), approved by the USM Board of Regents. The USM grievance procedure provides an opportunity for certain employee issues to be appropriately addressed and resolved, including disputes over the failure of an institution to pay wages that are due to a regular employee.

The USM is concerned that Senate Bill 79 alters the established definition of a grievance in a way that is not only unnecessary but improper. The language of Senate Bill 79 seems to suggest that an employee in the USM may be permitted to file a grievance on practically anything and everything, including the “general level of wages” and “other broad areas of financial management”- the breadth and scope of which cannot be understated. If interpreted in this way, an employee could challenge an institution’s financial management or staffing decisions through the grievance procedure, including but not limited to challenges to:

- the amount of a COLA or merit increase,
- the fringe benefit rates,
- the allocation of funds to specific priorities,
- operational decisions such as when to declare a snow emergency,
- the implementation of furloughs, or
- the pay structure.

Such matters under this bill would ultimately be decided by a hearing officer or other third-party decision-maker. Someone with little to no understanding of an institution’s budget and no accountability to the faculty, staff, and students of that institution would be given the authority to decide on wages or other broad areas of financial management by which the institution would be bound. Not only will Senate Bill 79 lead to inconsistent decisions at substantial and immeasurable cost to the USM and its constituent institutions, but it is arguably inconsistent with public policy.

Institutions will experience higher costs associated with processing and defending against grievances under Senate Bill 79, and additional human resources staff will likely be necessary to manage the increased volume.

In addition, Senate Bill 79 mandates the award of damages against an institution if a wage dispute is not corrected within one pay period of the violation. Damages will be assessed in the amount of 30% per pay period until the issue is corrected up to a maximum of three times (3x) the amount of wages due. These damages would extend to the institution regardless of whether the institution has any actual control over the matter (e.g. the USM and its constituent institutions have no direct control over the issuance of paychecks to USM employees, the State's Central Payroll Bureau controls the issuance of paychecks. The USM and its constituent institutions generally have no control over fringe benefit rates for USM employees; the State Department of Budget and Management sets fringe benefit rates).

An attempt to alter the grievance procedure in such a fundamental way through amendments to the State Personnel and Pensions Article (SPP) - an Article that is, with some exception, primarily applicable to employees of the State Personnel Management System (SPMS) and NOT to USM employees who fall under an independent personnel system - is problematic and would create legal inconsistencies. The Education Article vests in each institution President the authority over financial decisions as the Chief Executive Officer, the deliberation over which may include information sensitive or confidential in nature. Additionally, SPP § 3-302 provides each of the USM institutions with the sole right to determine the methods, processes, and means by which its operations are to be conducted and to manage its operations effectively and efficiently. Senate Bill 79 would be in contravention of both.

We believe that this bill does more than was perhaps intended. If the intent behind this bill is to permit an employee to grieve an institution's failure to accurately and timely pay wages due to that employee, **the USM would support amendments to the USM grievance statute under the Education Article to clarify that such payroll disputes would be subject to the established grievance procedure.** Otherwise, the USM would respectfully ask for an unfavorable report on Senate Bill 79.

Thank you for allowing the USM to share our position on Senate Bill 79.



About the University System of Maryland

The University System of Maryland (USM)—one system made up of twelve institutions, three regional centers, and a central office—awards eight out of every ten bachelor's degrees in the State of Maryland. The USM is governed by a Board of Regents, comprised of twenty-one members from diverse professional and personal backgrounds. The chancellor, Dr. Jay Perman, oversees and manages the operations of USM. However, each constituent institution is run by its own president who has authority over that university. Each of USM's 12 institutions has a distinct and unique approach to the mission of educating students and promoting the economic, intellectual, and cultural growth of its surrounding community. These institutions are located throughout the state, from western Maryland to the Eastern Shore, with the flagship campus in the Washington suburbs. The USM includes Historically Black Colleges and Universities, comprehensive institutions, research universities, and the country's largest public online institution.

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