

# SENATE BILL 79

P4, R2, F5

(PRE-FILED)

3lr0913  
CF 3lr1606

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By: **Senator Kramer**

Requested: November 18, 2022

Introduced and read first time: January 11, 2023

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **State Personnel – Education and Transportation – Grievance Procedures**

3 FOR the purpose of authorizing a certain employee or a certain exclusive representative to  
4 initiate a grievance procedure under certain provisions of law; prohibiting the  
5 dismissal of a grievance concerning wages for a certain reason; requiring certain  
6 decision makers in a grievance procedure in certain higher education systems to  
7 award certain damages under certain circumstances; requiring certain employee  
8 grievance procedures and personnel systems to include certain redress for certain  
9 violations; requiring regulations adopted by the Secretary of Transportation to be  
10 consistent with certain provisions of law and include certain redress for certain  
11 violations; and generally relating to grievance procedures for State personnel and  
12 education and transportation employees.

13 BY repealing and reenacting, with amendments,  
14 Article – State Personnel and Pensions  
15 Section 2–407  
16 Annotated Code of Maryland  
17 (2015 Replacement Volume and 2022 Supplement)

18 BY repealing and reenacting, with amendments,  
19 Article – Education  
20 Section 13–203(e), 14–408, and 16–510(a)  
21 Annotated Code of Maryland  
22 (2022 Replacement Volume)

23 BY adding to  
24 Article – Education  
25 Section 14–302(h)  
26 Annotated Code of Maryland  
27 (2022 Replacement Volume)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,  
2 Article – Transportation  
3 Section 2–103.4(d)  
4 Annotated Code of Maryland  
5 (2020 Replacement Volume and 2022 Supplement)

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

8 **Article – State Personnel and Pensions**

9 2–407.

10 (a) If an appointing authority does not report payroll information in accordance  
11 with § 2–402 of this subtitle, the employee or the employee’s exclusive representative may  
12 initiate a grievance under the grievance procedure established under:

- 13 (1) Title 12, Subtitle 2 of this article;
- 14 (2) **TITLE 13, SUBTITLE 2 OF THE EDUCATION ARTICLE;**
- 15 (3) **TITLE 14, SUBTITLE 3 OF THE EDUCATION ARTICLE;**
- 16 (4) **§ 14–408 OF THE EDUCATION ARTICLE;**
- 17 (5) **§ 16–510(A) OF THE EDUCATION ARTICLE;**
- 18 (6) **§ 2–103.4 OF THE TRANSPORTATION ARTICLE;**
- 19 (7) **ANY OTHER APPLICABLE GRIEVANCE PROCEDURE; OR**
- 20 (8) **ANY OTHER APPLICABLE COLLECTIVE BARGAINING AGREEMENT.**

21 (b) (1) Except as provided in paragraph (2) of this subsection, and  
22 notwithstanding [§ 12–203 of this article] **ANY STATUTORY OR REGULATORY DEADLINE**  
23 **IN ANY GRIEVANCE PROCEDURE LISTED UNDER SUBSECTION (A) OF THIS SECTION,**  
24 a grievance under subsection (a) of this section shall be initiated within 20 days after the  
25 failure to pay occurred.

26 (2) If the failure to pay is not known to, or discovered by, the employee  
27 within 20 days after the failure to pay occurs, a grievance under subsection (a) of this  
28 section may be initiated no later than 6 months after the date on which the failure to pay  
29 occurred.

1 (c) (1) Subject to paragraphs (2) and (3) of this subsection, if a grievance is  
 2 initiated in accordance with subsection (a) of this section, an employee is entitled to wages  
 3 and damages unless the wage is withheld as a result of a bona fide dispute.

4 (2) If the grievance was filed:

5 (i) in the first 3 business days of a pay period, then damages shall  
 6 start in the following regular pay period; or

7 (ii) after the third business day of a pay period, then the damages  
 8 shall start in the second regular pay period following the pay period in which the employee  
 9 was not paid the employee's full wage.

10 (3) The damages under paragraph (1) of this subsection:

11 (i) may not begin until at least 1 regular pay period has elapsed  
 12 since the employee was not paid the employee's full wage due for a pay period;

13 (ii) shall increase per pay period by 30% of the wage that the  
 14 appointing authority failed to report;

15 (iii) shall continue until the pay period when the appointing  
 16 authority reports the missing wages and damages, if any, to the Central Payroll Bureau;  
 17 and

18 (iv) may not exceed 3 times the amount of wage due that the  
 19 appointing authority failed to report for a pay period.

20 **(D) NOTWITHSTANDING THE DEFINITION OF GRIEVANCE UNDER §**  
 21 **13-201(C)(2) OF THE EDUCATION ARTICLE, A GRIEVANCE CONCERNING WAGES AS**  
 22 **DEFINED BY § 2-402(C)(1) OF THIS SUBTITLE, MAY NOT BE DENIED OR DISMISSED**  
 23 **BECAUSE THE GRIEVANCE RELATES TO:**

24 **(1) GENERAL LEVELS OF WAGES;**

25 **(2) WAGE PATTERNS;**

26 **(3) FRINGE BENEFITS; OR**

27 **(4) OTHER BROAD AREAS OF FINANCIAL MANAGEMENT AND**  
 28 **STAFFING.**

29 **Article – Education**

30 13-203.

1 (e) (1) The Chancellor or administrative law judge, as appropriate, shall have  
 2 the power to award back pay in any grievance and the president of the constituent  
 3 institution shall enforce such order. In any reclassification case in which the Chancellor or  
 4 administrative law judge, as appropriate, or his designated representative, determines that  
 5 an employee has been misclassified, the Chancellor or administrative law judge, as  
 6 appropriate, may, in his discretion, award back pay to the employee for a period not to  
 7 exceed one year prior to the initial filing of the grievance.

8 (2) AFTER A FINDING THAT WAGES WERE WITHHELD IN VIOLATION OF  
 9 §§ 2-402 AND 2-407 OF THE STATE PERSONNEL AND PENSIONS ARTICLE, THE  
 10 DECISION MAKER IN A GRIEVANCE PROCEDURE SHALL AWARD THE PAYMENT OF  
 11 DAMAGES IN ACCORDANCE WITH § 2-407 OF THE STATE PERSONNEL AND PENSIONS  
 12 ARTICLE.

13 14-302.

14 (H) AFTER A FINDING THAT WAGES WERE WITHHELD IN VIOLATION OF §§  
 15 2-402 AND 2-407 OF THE STATE PERSONNEL AND PENSIONS ARTICLE, THE  
 16 DECISION MAKER IN A GRIEVANCE PROCEDURE SHALL AWARD THE PAYMENT OF  
 17 DAMAGES IN ACCORDANCE WITH § 2-407 OF THE STATE PERSONNEL AND PENSIONS  
 18 ARTICLE.

19 14-408.

20 (a) (1) (i) On the recommendation of the President, and in accordance with  
 21 the requirements of Title 3 of the State Personnel and Pensions Article, the Board of  
 22 Trustees of St. Mary's College of Maryland shall establish a personnel system.

23 (ii) The personnel system established under subparagraph (i) of this  
 24 paragraph shall include provisions for consideration of hiring a contractual employee to fill  
 25 a vacant position in the same or similar classification in which the contractual employee is  
 26 employed.

27 (2) To carry out the requirements of this section, the Board:

28 (i) May establish and abolish positions;

29 (ii) May determine employee qualifications;

30 (iii) May establish terms of employment, including compensation,  
 31 benefits, holiday schedules, and leave policies;

32 (iv) May determine any other matters concerning employees; and

1 (v) Shall designate one or more representatives to participate as a  
2 party in collective bargaining on behalf of the College in accordance with Title 3 of the State  
3 Personnel and Pensions Article.

4 (b) The personnel system shall provide fair and equitable procedures for:

5 (1) The redress of employee grievances; and

6 (2) The hiring, promotion, and termination of employees in accordance  
7 with law.

8 (c) **THE EMPLOYEE GRIEVANCE PROCEDURES SHALL INCLUDE REDRESS OF**  
9 **ANY VIOLATION OF TITLE 2, SUBTITLE 4 OF THE STATE PERSONNEL AND PENSIONS**  
10 **ARTICLE, INCLUDING THE AWARD AND PAYMENT OF DAMAGES.**

11 (D) (1) Except as provided in paragraph (2) of this subsection, an employee of  
12 the College qualifies for and shall participate in the Employees' Pension System of the State  
13 of Maryland or the Teachers' Pension System of the State of Maryland.

14 (2) An employee in a position determined by the Board to be a professional  
15 or faculty position may join the optional retirement program under Title 30 of the State  
16 Personnel and Pensions Article.

17 16-510.

18 (a) (1) All employees of the College are in an independent personnel system.

19 (2) The personnel system established under this subsection shall include  
20 provisions for [consideration]:

21 (I) **CONSIDERATION** of hiring a contractual employee to fill a  
22 vacant position in the same or similar classification in which the contractual employee is  
23 employed; **AND**

24 (II) **REDRESS OF ANY VIOLATION OF TITLE 2, SUBTITLE 4 OF**  
25 **THE STATE PERSONNEL AND PENSIONS ARTICLE, INCLUDING THE AWARD AND**  
26 **PAYMENT OF DAMAGES.**

27 **Article – Transportation**

28 2-103.4.

29 (d) (1) The Secretary shall adopt regulations to govern the human resources  
30 management system established under this section.

1           (2) The regulations shall address procedures for leave, appointment,  
2 hiring, promotion, layoff, removal, termination, redress of grievances, as defined in §  
3 12–101 of the State Personnel and Pensions Article **AND CONSISTENT WITH § 2–407 OF**  
4 **THE STATE PERSONNEL AND PENSIONS ARTICLE**, and reinstatement of employees and  
5 shall be presented to the Joint Committee on Administrative, Executive, and Legislative  
6 Review under Title 10, Subtitle 1 of the State Government Article.

7           (3) The regulations shall provide that before taking any disciplinary action  
8 related to employee misconduct, an appointing authority or designated representative  
9 shall:

10                   (i) Investigate the alleged misconduct;

11                   (ii) Meet with the employee;

12                   (iii) Consider any mitigating circumstances;

13                   (iv) Determine the appropriate disciplinary action, if any, to be  
14 imposed; and

15                   (v) Give the employee a written notice of the disciplinary action to  
16 be taken and the employee's appeal rights.

17           (4) (i) The regulations shall provide that the appointing authority or  
18 designated representative may suspend an employee, with or without pay, pending the  
19 filing of charges for termination.

20                   (ii) If an employee is suspended without pay, the appointing  
21 authority or designated representative shall provide to the Secretary the charges for  
22 termination within 30 calendar days after the first day of the suspension period.

23                   (iii) If the appointing authority or designated representative files the  
24 charges for termination after the 30–day period described in subparagraph (ii) of this  
25 paragraph, the employee shall be placed on leave with pay until the Secretary receives the  
26 charges.

27           (5) The regulations shall provide that an appointing authority or a  
28 designated representative and an employee may agree to the holding in abeyance of a  
29 disciplinary action for a period not to exceed 18 months in order to permit an employee to  
30 improve conduct or performance.

31           (6) The employee grievance procedures shall include, at a minimum, the  
32 following sequence of levels of appeal:

33                   (i) Initially an aggrieved employee shall present any grievance to  
34 the appointing authority or a designated representative, who shall render a written  
35 decision;

1 (ii) Any appeal shall be presented to the Secretary or a designated  
2 representative, who shall render a written decision; and

3 (iii) If the dispute is still unresolved, the aggrieved employee may  
4 appeal to the Office of Administrative Hearings or a mutually agreed upon third party  
5 arbiter that may not hear grievances relating to classification, salary, or fiscal matters.

6 (7) **THE EMPLOYEE GRIEVANCE PROCEDURES SHALL INCLUDE**  
7 **REDRESS OF ANY VIOLATION OF TITLE 2, SUBTITLE 4 OF THE STATE PERSONNEL**  
8 **AND PENSIONS ARTICLE, INCLUDING THE AWARD AND PAYMENT OF DAMAGES.**

9 (8) The Secretary shall establish appeal procedures for disciplinary actions  
10 through regulations and policy.

11 ~~(8)~~ (9) (i) During any stage of a complaint, grievance, or other  
12 administrative or legal action that concerns State employment by a full-time or part-time  
13 executive service, career service, or commission plan employee of the Department, or by a  
14 temporary or contractual employee of the Department, the employee may not be subjected  
15 to coercion, discrimination, interference, reprisal, or restraint by or initiated on behalf of  
16 the Department solely as a result of that employee's pursuit of a grievance, complaint, or  
17 other administrative or legal action that concerns State employment.

18 (ii) An employee of the Department may not intentionally take or  
19 assist in taking an act of coercion, discrimination, interference, reprisal, or restraint  
20 against another employee solely as a result of that employee's pursuit of a grievance,  
21 complaint, or other administrative or legal action that concerns State employment.

22 (iii) An employee who violates the provisions of this paragraph is  
23 subject to disciplinary action, including termination of employment.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
25 October 1, 2023.