

Appeals of Classified Employee Personnel Actions

In the types of classified employee personnel actions identified below, the President may elect to either:

- delegate to the Office of Administrative Hearings the authority to conduct a hearing (in accordance with the procedures set forth herein and in the Personnel Procedures for Classified Employees) and issue a proposed decision for approval by the Secretary of Budget and Management, or
- where a hearing is provided for in sections 14-204 through 14-208 of the Education Article of the Annotated Code of Maryland, the President may hold the hearing in accordance with the Board of Regents procedures provided herein and the Personnel Procedures for Classified Employees. .

Appeal Procedure for Removal of Non-probationary Classified Employee

A classified employee may appeal the charges for removal to the President in accordance with the following procedures:

1. Within five (5) working days of the employee's receipt of the Charges for Removal, the employee may appeal the proposed removal by filing with the Director of Human Resources a written request for a hearing. If the employee fails to appeal within the time frame and in proper form, the removal shall be final.
2. If the employee files a timely and proper appeal, the Director of Human Resources shall coordinate with the President (or designee) a hearing to determine whether there is cause for removal. The hearing shall be held within 90 calendar days after the written charges for removal were submitted to the President. The burden of proving cause for removal rests with the University by a preponderance of the evidence. If the hearing is conducted by the President's designee, the designee shall prepare written findings and submit them and a recommendation for action to the President. The President shall make findings and issue a proposed written decision on an appeal for approval by the Secretary of Budget and Management within 45 calendar days after the later of:
 - a. the conclusion of the hearing, or
 - b. the day when all briefs or memoranda have been submitted.
3. The Secretary of Budget and Management shall provide a copy of findings and decision to each party.
4. The decision of the Secretary of Budget and Management is final.

BOARD OF REGENTS
MORGAN STATE UNIVERSITY
SUMMARY OF ITEM FOR ACTION

TOPIC: Appeals of Classified Employee Personnel Actions

DATE OF MEETING: November 20, 2001

BRIEF EXPLANATION: When the University was granted independent personnel authority, the President was designated the authority to elect either to delegate the President's hearing authority to the Office of Administrative Hearings (OAH) or to retain the hearing authority and to conduct the hearing in accordance with the Board of Regents procedures and the Personnel Procedures for Classified Employees. To date, the President has elected to delegate the hearing authority to OAH. However, in instances where the President may elect to retain that authority, the Board of Regents appeal procedures are contained herein.

FISCAL IMPACT: None

PRESIDENT'S RECOMMENDATION: The President recommends approval.

COMMITTEE

ACTION: _____ DATE: _____

BOARD

ACTION: _____ DATE: _____

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- where a hearing is provided for in sections 14-204 through 14-208 of the Education Article of the Annotated Code of Maryland, the President may hold the hearing in accordance with the Board of Regents procedures provided herein and the Personnel Procedures for Classified Employees.

Appeal from a Rejection of a Classified Employee During Probation that Results from a Promotion

If a classified employee is on probation as a result of a promotion and during the probationary period is rejected, the employee may appeal by filing a written request for a hearing with the Director of Human Resources within five (5) working days of receiving notice of the rejection. The written request for an appeal hearing shall state the issues of fact and law that the employee believes would warrant a rescission of the rejection, limited to allegations that the rejection was:

1. procedurally defective and the procedural defect was material,
2. illegal, or
3. unconstitutional.

The President (or designee) may review the record and/or confer with the employee. The President's determination (based upon the President's review or upon the recommendation of the President's designee) may be to:

1. Uphold the rejection; or
2. Rescind or modify the action taken.

The President shall issue a written decision to the appealing employee. The decision of the President is the final administrative decision.

Appeal of a Disciplinary Suspension - Written Decision

The procedures for an appeal of a disciplinary suspension appear in §14-207 of the Education Article of the Annotated Code of Maryland. The written decision of the vice president or program director on an appeal of a disciplinary suspension shall be issued within sixty (60) calendar days after the hearing.

**Appeal Procedure for
Involuntary Demotion of a Classified Employee**

A classified employee may appeal a proposed involuntary demotion by appealing the proposed demotion to the President in accordance with the following procedures:

1. Within five (5) working days of the employee's receipt of the Charges for Demotion, the employee may appeal the proposed demotion by filing with the Director of Human resources a written request for a hearing. The written request shall state the issues of fact and law that the employee believes would warrant a reconsideration of the proposed demotion. If the employee fails to appeal within the time frame and in proper form, the demotion shall be final.
2. If the employee files a timely and proper appeal, the Director of Human Resources shall coordinate with the President (or designee) a hearing to determine whether there is cause for demotion. The hearing shall be held within 90 calendar days after the written charges for demotion were submitted to the President. The burden of proving cause for demotion rests with the University by a preponderance of the evidence. If the hearing is conducted by the President's designee, the designee shall prepare written findings and submit them and a recommendation for action to the President. The President shall make findings and issue a proposed written decision on an appeal for approval by the Secretary of Budget and Management within 45 calendar days after the later of:
 - a. the conclusion of the hearing, or
 - b. the day when all briefs or memoranda have been submitted.
3. The Secretary of Budget and Management shall provide a copy of findings and decision to each party.
4. The decision of the Secretary of Budget and Management is final.

**Appeal Procedure for
Removal of Nonprobationary Classified Employee**

A classified employee may appeal the charges for removal to the President in accordance with the following procedures:

1. Within five (5) working days of the employee's receipt of the Charges for Removal, the employee may appeal the proposed removal by filing with the Director of Human Resources a written request for a hearing. If the employee fails to appeal within the time frame and in proper form, the removal shall be final.
2. If the employee files a timely and proper appeal, the Director of Human Resources shall coordinate with the President (or designee) a hearing to determine whether there is cause for removal. The hearing shall be held within 90 calendar days after

the written charges for removal were submitted to the President. The burden of proving cause for removal rests with the University by a preponderance of the evidence. If the hearing is conducted by the President's designee, the designee shall prepare written findings and submit them and a recommendation for action to the President. The President shall make findings and issue a proposed written decision on an appeal for approval by the Secretary of Budget and Management within 45 calendar days after the later of:

- a. the conclusion of the hearing, or
 - b. the day when all briefs or memoranda have been submitted.
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