

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council of Howard County, Maryland

2018 Legislative Session

Legislative Day No. 3

Bill No. 14 -2018

Introduced by: The Chairperson at the request of the County Executive

AN ACT allowing for the dismissal of classified employees in certain instances; and generally relating to Human Resources provisions in the County Code.

Introduced and read first time _____, 2018. Ordered posted and hearing scheduled.

By order _____
Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2018.

By order _____
Jessica Feldmark, Administrator

This Bill was read the third time on _____, 2018 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ___ day of _____, 2018 at ___ a.m./p.m.

By order _____
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive _____, 2018

Allan H. Kittleman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment

1 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland, that the Howard
2 County Code is amended as follows:

- 3 1. By amending Section 1.115 “Dismissal and Discipline of employees in the classified service”
4
5 2. By adding Subsection (d) and Subsection (e) to Section 1.119 “Non-Disciplinary Separations
6 other than dismissal”
7

8 **Title 1. Human Resources.**

9 **Subtitle 1. Human Resources Administration.**

10 **Part II. Merit System.**

11
12 **Section 1.115. PERFORMANCE-RELATED DISMISSAL, Dismissal FOR CAUSE, and Discipline of**
13 **employees in the classified service.**

14 (a) *Dismissal from the Classified Service for Unsatisfactory Performance.* An appointing
15 authority may dismiss a classified employee if:

- 16 (1) The employee's work performance is unsatisfactory;
17 (2) In accordance with procedures in the employee manual, the appointing authority has
18 issued a written warning to the employee;
19 (3) After receiving the warning, the employee has an opportunity to meet the performance
20 standards for the position; and
21 (4) The employee's performance continues to be unsatisfactory.

22 (b) *Immediate Dismissal for Cause.* An appointing authority may immediately dismiss a
23 classified employee if the employee engages in conduct within the following categories:

- 24 (1) Dishonesty, including misuse of money or property, theft, or making false statements;
25 (2) Insubordination, including failure or refusal to follow legitimate or lawful directions or
26 orders;
27 (3) Violation of County policy, including any policy to which an employee is made subject
28 as a corollary of employment;
29 (4) Misconduct, including negligence, tardiness, unauthorized absence, illegal activities,
30 conviction of a felony or crime of moral turpitude, or any behavior which endangers
31 other employees or County property; or
32 (5) Accepting for personal use any fee, gift, or other thing of value in connection with or
33 during the course of County employment if given to the employee by any person with the

1 hope or expectation of receiving a favor or better treatment than that accorded to other
2 persons, and other conduct that violates the County's ethics law.

3 (c) *Discipline in Lieu of Dismissal*. In lieu of dismissal, an appointing authority may take any or
4 all of the following disciplinary actions against a classified employee:

- 5 (1) Give the employee a written reprimand;
- 6 (2) With the approval of the Personnel Officer, demote the employee to a lower pay grade or
7 to a reduced level of pay in the same grade;
- 8 (3) Direct the suspension of the employee's accrual of annual or personal leave for a period
9 not to exceed one year; or
- 10 (4) Suspend the employee without pay.

11
12 **Section 1.119. - ~~Non-Disciplinary~~ NON-DISCIPLINARY Separations [[other than dismissal]].**

13 (D) *DISMISSAL FOR INABILITY TO PERFORM ESSENTIAL FUNCTIONS*. EXCEPT AS PROVIDED IN
14 SUBSECTION (E) OF THIS ~~SUBSECTION~~ SECTION, AN APPOINTING AUTHORITY MAY DISMISS A
15 CLASSIFIED EMPLOYEE IF:

16 (1) A ~~PHYSICIAN OR MENTAL HEALTH PROVIDER~~ HEALTH CARE PROVIDER HAS DETERMINED
17 THAT THE EMPLOYEE IS NOT PHYSICALLY OR MENTALLY ABLE OF PERFORMING THE
18 ESSENTIAL DUTIES OF THE EMPLOYEE'S POSITION; FOR THE PURPOSES OF THIS SECTION,
19 HEALTH CARE PROVIDER MEANS A LICENSED DOCTOR OF MEDICINE OR OSTEOPATHY WHO
20 IS AUTHORIZED TO PRACTICE MEDICINE OR SURGERY AS WELL AS LICENSED PODIATRISTS,
21 DENTISTS, CLINICAL PSYCHOLOGISTS, CLINICAL SOCIAL WORKERS AND OPTOMETRISTS;

22 (2) THE COUNTY HAS DETERMINED THAT THERE ARE NO REASONABLE ACCOMMODATIONS,
23 INCLUDING OTHER AVAILABLE VACANT POSITIONS FOR WHICH THE EMPLOYEE WOULD
24 QUALIFY; AND

25 (3) THE EMPLOYEE HAS BEEN GIVEN THE OPPORTUNITY TO PURSUE RETIREMENT OR DISABILITY
26 OPTIONS WHICH MAY BE AVAILABLE TO THE EMPLOYEE.

27 (E) *OPTION FOR SECOND ~~OPINION ON~~ EVALUATION OF INABILITY TO PERFORM ESSENTIAL FUNCTIONS*.
28 ~~BEFORE AN~~

29 (1) ~~BEFORE AN~~ EMPLOYEE IS DISMISSED UNDER SUBSECTION (D) OF THIS SECTION, THE
30 EMPLOYEE MAY OBTAIN A SECOND ~~MEDICAL OPINION ON~~ EVALUATION BY A HEALTH CARE
31 PROVIDER OF THE EMPLOYEE'S ABILITY TO PERFORM THE ESSENTIAL DUTIES OF THE

1 EMPLOYEE'S POSITION. IF THE SECOND ~~OPINION~~ EVALUATION FINDS THAT THE EMPLOYEE
2 HAS THE ABILITY TO PERFORM THE ESSENTIAL DUTIES, THE COUNTY MAY ~~OBTAIN A THIRD~~
3 ~~MEDICAL OPINION, FROM AN INDEPENDENT SOURCE, AND THE COUNTY SHALL RELY ON THE~~
4 ~~THIRD OPINION IN ITS DETERMINATION UNDER THIS SECTION.~~ ACCEPT THE SECOND
5 EVALUATION OR THE COUNTY MAY SEEK A THIRD EVALUATION IN ACCORDANCE WITH
6 SUBSECTION (F) OF THIS SECTION.

7
8 (2) THE COUNTY SHALL PAY FOR ALL COSTS INCURRED FOR THE SECOND EVALUATION IF:

9 (I) THE COST OF THE SECOND EVALUATION IS NOT COVERED BY THE
10 EMPLOYEE'S HEALTH INSURANCE; AND

11 (II) THE EMPLOYEE DEMONSTRATES THAT THE EMPLOYEE CANNOT AFFORD THE
12 COST OF THE SECOND EVALUATION.

13
14 (F) THIRD EVALUATION. IF THE COUNTY DETERMINES THAT A THIRD EVALUATION IS NECESSARY,
15 THE COUNTY SHALL OBTAIN A THIRD EVALUATION FROM AN INDEPENDENT, BOARD CERTIFIED
16 HEALTH CARE PROVIDER:

17 (1) WHO SHALL BE MUTUALLY AGREED TO BY THE EMPLOYEE AND THE COUNTY;

18 (2) WHOSE COSTS SHALL BE PAID BY THE COUNTY; AND

19 (3) WHOSE OPINION SHALL BE BINDING ON THE PARTIES.

20 (G) EMPLOYEES COVERED BY COLLECTIVE BARGAINING AGREEMENTS. A DISMISSAL UNDER
21 THIS SECTION IS SUBJECT TO THE GRIEVANCE PROCEDURE FOR A TERMINATION UNDER AN
22 APPLICABLE COLLECTIVE BARGAINING AGREEMENT OR THE APPEAL PROCESS PROVIDED IN
23 SECTION 1.500 OF THE HOWARD COUNTY CODE AND THE APPEALS SECTION OF THE HOWARD
24 COUNTY EMPLOYEE MANUAL, AS APPLICABLE.

25 (H) EMPLOYEES NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS. A DISMISSAL UNDER THIS
26 SECTION IS SUBJECT TO THE APPEAL PROCESS PROVIDED IN SECTION 1.500 OF THE HOWARD

1 COUNTY CODE AND THE APPEALS SECTION OF THE HOWARD COUNTY EMPLOYEE MANUAL, AS
2 APPLICABLE.

3

4 *Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland that*
5 *this Act shall become effective 61 days after its enactment.*