

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**2000 Legislative Session**Bill No. CB-25-2000Chapter No. 50Proposed and Presented by Council Member EstepIntroduced by Council Member Estep

Co-Sponsors _____

Date of Introduction June 27, 2000**BILL**

AN ACT concerning

Personnel Law – Employee Bill of Rights

For the purpose of providing procedural and substantive rights to employees for the protection of an employee's rights to privacy, free speech, and free association and to provide for sanctions for violations of such rights.

BY renumbering and repealing and reenacting with amendments:

SUBTITLE 16. PERSONNEL.

Sections 16-110, 16-110.01, AND 16-110.02,

The Prince George's County Code

(1999 Edition).

BY adding:

SUBTITLE 16. PERSONNEL.

Sections 16-237, 16-238, 16-239, 16-240,

16-241, 16-242 and 16-243,

The Prince George's County Code

(1999 Edition).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 16-110, 16-110.01, and 16-110.02 of the Prince George's County Code be and the same are hereby repealed and reenacted with the following amendments:

SUBTITLE 16. PERSONNEL.

DIVISION 1. GENERAL PROVISIONS.

DIVISION 20. COUNTY EMPLOYEES' BILL OF RIGHTS.

Sec. [16-110] 16-234. Political activity.

Pursuant to Section 909 of Article IX of County Charter, all employees may participate or refrain from participating in partisan political activity, except where otherwise prohibited by Federal or State statute. Employees shall not engage in partisan political activity during their hours of employment.

Sec. [16-110.01] 16-235. Prohibited personnel practices.

(a) It shall be wrongful and illegal and a prohibited personnel practice for any employee who has authority to take, direct others to take, recommend, or approve any personnel action, to take or fail to take a personnel action with respect to any employee or applicant for employment solely, as a reprisal for a disclosure of information by an employee or applicant as to action taken by another employee or applicant which the employee or applicant reasonably believes evidences:

(1) A violation of any law, rule or regulation; or

(2) Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety if such disclosure is not specifically prohibited by law.

(b) The Director of Personnel and the head of each department or agency shall be responsible for the prevention of prohibited personnel practices. Any individual to whom a department delegates authority for personnel management, or for any aspect thereof, shall be similarly responsible within the limits of the delegation. Nothing in this Subsection shall be construed to create a civil or criminal liability on the part of the Director of Personnel, department head, or any other individual who did not directly engage in a prohibited personnel practice.

(c) A prohibited personnel practice as defined in Subsection (a) shall constitute a basis for the initiation of a grievance as defined in Section 16-102(a)(28).

(d) A prohibited personnel practice as defined in Subsection (a) shall constitute a defense against an adverse action as defined in Section 16-102(a)(1) taken solely as a reprisal for a disclosure of information as set forth in Section 16-110.01(a), above.

Sec. [16-110.02] 16-236. Testimony before County Council.

(a) After authorization by a majority vote of the full Council and upon the receipt of a written request by the Chairman of the County Council, or chairman of a Council committee, setting forth the time, place, and subject matter of a hearing, an employee or officer of the County shall be required to be present and to testify to matters relative to the subject matter of the hearing. When so requested, an employee shall produce documents or papers in his possession or custody. An employee or officer shall not be required to testify on any matter that is protected by Executive privilege as defined under Maryland law (generally policy discussion with the Executive).

(b) An employee testifying at the request of the Council or committee chairman shall be deemed on authorized County business and shall be granted compensatory time for time spent outside of duty hours for the purpose of such testimony, as is consistent with existing salary plans.

(c) It shall be a prohibited personnel practice for any employee or official of the County to interfere with, threaten with disciplinary action, or otherwise attempt to restrain an employee from testifying when so requested by the Council or committee chairman.

(d) A prohibited personnel practice as defined in Subsection (c) shall be a basis for the initiation of a grievance as defined in Section 16-102(a)(28) and shall constitute a defense against an adverse action as defined in Section 16-102(a)(1) taken solely as a reprisal for testifying under this Section.

(1) Where an adverse action is taken within six months after the employee has appeared before the Council, or a committee of the Council, it shall be presumed that such adverse action is a prohibited personnel practice. Such presumption shall only be rebutted by clear and convincing evidence to the contrary.

SECTION 2. BE IT FURTHER ENACTED that Sections 16-237, 16-238, 16-239, 16-240, 16-241, 16-242 and 16-243 of the Prince George's County Code be and the same are hereby added:

SUBTITLE 16. PERSONNEL

DIVISION 20. COUNTY EMPLOYEES' BILL OF RIGHTS.

Sec. 16-237. Abridging the freedom of speech.

1 (a) An employee may publicly or privately comment upon any matter of public policy of
 2 general interest and upon any subject that is not prohibited from disclosure by the Maryland
 3 Public Information Act. Notwithstanding the above, an employee may not represent the views of
 4 the agency/department in an official capacity nor disclose confidential information as defined
 5 under Maryland law.

6 **Sec. 16-238. Use of employee's Social Security Account Number.**

7 (a) It shall be the policy of the County to protect the privacy of an employee's Social
 8 Security account number as contained in official County records and business correspondence.
 9 The Directors of the Office of Finance and the Office of Personnel and Labor Relations shall
 10 ensure such protection in the maintenance of records and conduct of financial and personnel
 11 transactions.

12 (b) An employee's Social Security account number may only be used for legitimate
 13 business purposes in carrying out the duties and responsibilities of County government. Access
 14 to records which contain an employee's Social Security account number shall be limited to those
 15 employees or agents who are preauthorized in writing by the Directors of the Office of Finance
 16 and the Office of Personnel and Labor Relations and/or the Director whose job duties necessitate
 17 the recording or receiving information in the normal course of business which included
 18 employee Social Security account numbers.

19 **Sec. 16-239. Disclosure of personal financial information.**

20 (a) An employee may not be required to disclose any item of property, income, assets,
 21 source of income, debts, or personal or domestic expenditures, including those of any member of
 22 the employee's immediate family, unless that information is necessary to investigate an alleged
 23 conflict of interest with respect to the performance of the employee's official duties or unless
 24 such disclosure is required by Federal, State, or County law.

25 (b) Nothing in this Act shall remove the requirements imposed by the Prince George's
 26 County Board of Ethics for employees who are designated to file an annual disclosure statement
 27 with the aforementioned Board.

28 (c) An employee may engage in secondary employment that is not in conflict with the
 29 performance of the employee's official duties, and does not pose a conflict of interest.
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Sec. 16-240. Retaliation for exercising rights.

(a) It shall be a prohibited personnel practice for any employee or official of the County to interfere with, threaten disciplinary action, or otherwise attempt to prevent an employee from exercising his/her rights granted under the Personnel Law or the Charter.

(b) If an adverse action has been taken against an employee and the employee claims that such action was in retaliation for the exercise of rights granted under this division, the Personnel Board shall determine the validity of the claim in accordance with Section 16-203 of the County Code.

Sec. 16-241. Investigation of employee for conduct-related disciplinary action.

(a) Whenever an employee is subject to investigation for any reason which could lead to the imposition of conduct related disciplinary action pursuant to Section 16-193, the following procedure shall apply:

(1) Investigatory interviews with employees are to be conducted in a setting which affords privacy, so as to ensure, as far as practicable, that the discussions are confidential.

(2) The interview shall be scheduled at reasonable times, preferably during the employee's normal working hours. Interviews shall be for reasonable time and will allow for rest periods as necessary.

(3) The employee subject to investigation shall be informed of the general nature of the investigation, potential charges, which may ensue, and possible disciplinary outcomes.

(4) If the interview is recorded, the employee shall be informed prior to being questioned and a copy of the recorded interview shall be provided to the employee at the conclusion of the investigation.

(b) In the event that a disciplinary action is not initiated against the employee or is not sustained by the Personnel Board pursuant to Division 13, all copies of the record of investigation shall be expunged from all records and destroyed.

(c) Nothing in this Act shall prevent an appointing authority from ordering the immediate suspension of an employee who meets the criteria for such action under the Personnel Law.

Sec. 16-242. Waiver of Rights.

(a) An employee may waive in writing any of the rights provided in this Division, provided, however, that such a waiver be specific and that no waiver shall be requested or demanded by any person as a condition of employment or continued employment.

1 **Sec. 16-243. Sanctions.**

2 (a) Any employee who alleges that any rights provided by this Division have been violated
3 by an appointing authority or a person acting on behalf of the appointing authority may initiate a
4 grievance.

5 (b) Any employee who is found to have knowingly, willfully, or with reckless disregard
6 violated provisions of this Division shall be subject to disciplinary action in accordance with
7 applicable provisions of the Subtitle.

8 (c) A supervisor who receives information that an employee under his/her supervision has
9 allegedly violated the provisions of this section shall review the allegations and promptly report
10 the information along with any recommendations to the next level of supervision.

11 SECTION 3. BE IT FURTHER ENACTED that, within (sixty) 60 days after the enactment
12 of this bill, the Director of Finance and the Personnel Officer shall promulgate an initial list of
13 cases where legitimate business purpose requires the use of Social Security numbers. The
14 Council shall review this list prior to its implementation. This list shall be updated periodically
15 and the Council shall review such information prior to implementation.

16 SECTION 4. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)
17 calendar days after it becomes law.

Adopted this 25th day of July, 2000.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Dorothy F. Bailey
Chair

ATTEST:

Joyce T. Sweeney
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Wayne K. Curry
County Executive

KEY:
Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.
Asterisks *** indicate intervening existing Code provisions that remain unchanged.