



Prince George's County, Maryland
Inter-Office Memorandum
Office of Law

LEGISLATIVE COMMENT

DATE: January 27, 2021

TO: Robert J. Williams, Jr. Council Administrator
Committee of the Whole

THRU: Rhonda L. Weaver, County Attorney

THRU: Joseph C. Ruddy, Deputy County Attorney

FROM: Amanda Denison, Associate County Attorney

RE: CR-07-2021

The Office of Law has reviewed the above referenced **resolution** as it was **scheduled to be introduced** on **January 26, 2021**. After review, the Office of Laws finds it to be in proper legislative form, but with several legal impediments to its adoption.

1. The resolution is unclear about what person(s) are considered "Officials" as there is no definition contained within the body of the text nor is there a cross-citation to a definition elsewhere in the Prince George's County Code. Without clarification, the resolution lacks clarity about whom specifically it applies and why it applies. A second example is the term, "volunteer." The Fire Department has limited disciplinary sanctions for volunteers.
2. All employee's have the First Amendment Right to peacefully protest, therefore their mere presence at the Capitol on January 6, 2021 or January 20, 2021 does not rise to the level of disciplinary actions in and of itself. However, if their presence there somehow rose to the level of misconduct for other reasons -- such as they were required to report to

work and failed to do so or violated a social media policy – then those very specific and distinct acts **only** could be considered for disciplinary sanctions. Subject to some other verifiable form of infraction, save violating the United States Constitution, there is no basis to discipline any employee for simply being present at the US Capitol on either date specified within the resolution.

3. Prince George’s County Employee Personnel Law does not categorize the seizure of pension benefits as an authorized disciplinary action—the most severe disciplinary action is termination. Once an employee meets the qualifications of their pension plan (term of service and/or age), then the pension belongs to that employee. This issue requires additional research and analysis as the power to seize pension benefits is much more complicated. The Office of Law needs to research and review relevant case law and pension documents to see if terminating pension benefits is lawful and if so, under what circumstances.
4. Any report of employee disciplinary actions would be confidential and releasing the information would violate both state and local law. See Prince George’s County Code Sec. 16-215 which states:

Pursuant to the provisions of Section 203 of the County Charter and Title 10, Subtitle 6, State Government Article, Annotated Code of Maryland, all personnel and leave records and documents contained in each employee's personnel file shall be regarded as confidential information and shall not be made available to any person except those persons described in Section 16-216(d) and except under circumstances otherwise authorized by applicable State or Federal statute and any regulations authorized pursuant thereto.
(CB-1-1976; CB-83-1996)

And Prince George’s County Code Sec. 16-216(e) which states:

The official personnel file includes any file that contains documents relating to employment with the County, including, but not limited to application, resumes, documentation of disciplinary actions and related appeals...