

Removal Procedure

All the state laws except Georgia's (where there is a similar provision in the rules) provide that an employee shall be entitled to a written statement of the charges against him and be given an opportunity to file an answer. In Massachusetts all employees, and in New York those who are war veterans or volunteer firemen, are in addition entitled to a hearing before the head of the department or his deputy.

Usually charges against an employee must be filed by the appointing officer, but any citizen may file charges in Alabama California(with the consent of the civil service board, the appointing power or the Attorney General), Colorado, Maryland (with the consent of the appointing authority or the State Employment Commissioner) and Pennsylvania.

Review by Central Personnel Agency

In every state there is some provision for review of removal actions against permanent employees by the civil service commission or personnel board. Until 1941 the New York law permitted no review, and the removing officer was judge and jury as in the Federal service, but in 1941 the law was amended to permit the civil service commission to review a removal action on appeal of the employee and to make an advisory determination.

Provisions for appeals fall into two general patterns. One is that of the National Civil Service League's Model State Civil Service Law, which New York adopted in 1941, whereby the personnel agency can recommend modifying or reversing the removal but cannot enforce its recommendation. In the states which follow this system, the most the personnel agency can do is to transfer to another department an employee who it believes should not have been removed, with the consent of the new appointing officer; or place him on an eligible list or reemployment list for certification to an appropriate vacancy. This is the system in Indiana, Maine, Michigan, Oregon, Rhode Island and Tennessee, in addition to New York.

The other pattern is "the closed

back door," where the personnel agency makes the final decision and may reinstate an employee over the objections of the officer who removed him. The states where this is the law are Alabama, California, Colorado, Connecticut, Georgia, Illinois, Kansas, Maryland, Massachusetts, Minnesota, Missouri, New Jersey, Ohio, Pennsylvania and Wisconsin. (It should be noted that in Connecticut not the State Personnel Director but a 3-member Personnel Appeal Board appointed by the Governor is the reviewing agency).

Variations of these general patterns exist. While in all other states (except Colorado, which observes no probationary period) employees may be removed summarily during or at the end of the probationary period, which is considered part of the examination, in Illinois veterans in probationary status are entitled to the same right of written charges and a review by the civil service commission as are permanent employees. Furthermore, in Illinois the commission is required to investigate every removal. In Maryland, Michigan, New Jersey and Pennsylvania the personnel agency may investigate a removal on its own initiative; in the other states it does so at the request of the aggrieved employee.

In some states which have a personnel director and an advisory civil service commission or personnel board the director has the duty of making a preliminary investigation when a department reports to him that one of its employees is to be removed, and reporting his findings to the commission. This is provided in the laws of Missouri, Michigan, Rhode Island and Tennessee.

In most states, when an employee appeals to the personnel agency he is entitled to a public hearing at which the charges and his defense are heard, but this requirement is omitted from the laws of Connecticut, Georgia, Maine and Michigan.

Review by the Courts

In only a few states do the civil service laws specifically mention judicial review of removals. The courts have rarely failed to assume jurisdiction in

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