

MAINE STATE LEGISLATURE

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January 10, 1969

Sumner J. Goffin, Esquire
Wilson, Steinfeld, Murrell & Goffin
85 Exchange Street
Portland, Maine 04111

Dear Mr. Goffin: Re: Authority of State Appeals Board

The following opinion is in reply to your query of December 17, 1968.

SYLLABUS:

A disciplinary action by an appointing authority resulting in a reclassification of an employee to a lower grade is appealable to the State Employees Appeal Board.

FACTS:

By letter to this office you presented the following: In Chapter 539 of the Public Laws as approved January 26, 1968, Section 752 sets up the authority of the Appeal Board to mediate final settlement of all grievances and disputes "except in matters of classifications and compensation." In Section 678 it states, "An appointing authority may dismiss, suspend or otherwise discipline an employee for cause. This right is subject to the right of appeal and arbitration of grievances set forth in Sections 751 and 753."

QUESTION:

Is disciplinary action by an appointing authority which results in reclassifying an employee to a lower grade a proper matter to be heard by the State Employee's Appeal Board on appeal under 5 M.R.S.A. § 678?

ANSWER:

Yes.

OPINION:

The reclassification of an employee to a lower grade is a result of disciplinary action and is in the nature of a sentence. It is an integral part of the disciplinary action and cannot be separated therefrom. 3 M.R.S.A. § 678, as enacted by the Public Laws of 1967, c. 539 § 2, clearly grants a right of appeal by the employee in a disciplinary action to the Employee's Appeal Board. The reclassification to a lower grade is not a matter of classification excepted from appeals by 3 M.R.S.A. § 752 as enacted by the Public Laws of 1967, c. 539, § 1.

Very truly yours,

Jerome S. Matus
Assistant Attorney General

JSM:H