

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 1437

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H.P. 1022

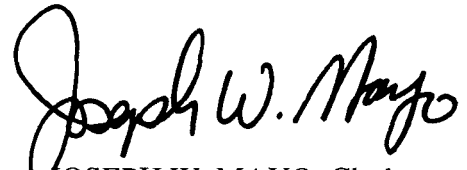
House of Representatives, April 27, 1995

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**An Act Concerning the Confidential Employees of the Maine Technical  
College System.**

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Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative JACQUES of Waterville.  
Cosponsored by Representatives: CLOUTIER of South Portland, FISHER of Brewer,  
GOULD of Greenville, JOSEPH of Waterville, MARTIN of Eagle Lake, MORRISON of  
Bangor, SAXL of Bangor, Senators: BUSTIN of Kennebec, CAREY of Kennebec,  
FAIRCLOTH of Penobscot, MICHAUD of Penobscot, PARADIS of Aroostook.

2                   **Be it enacted by the People of the State of Maine as follows:**

4                   **Sec. 1. 20-A MRSA §12722 is enacted to read:**

6                   **§12722. Due process for unclassified employees; grievances**

8                   The following procedures apply to employees of the system in  
10 unclassified service with regard to complaints concerning terms  
12 or conditions of employment.

14                   1. Informal complaint. An employee may bring complaints to  
16 the employee's supervisor for informal discussion and resolution  
18 without prejudice.

20                   2. Written grievance. If informal discussion does not  
22 resolve a complaint pursuant to subsection 1, the employee may  
24 present the complaint in writing to the employee's supervisor  
26 specifying the details of the complaint. The board of trustees  
28 shall establish a time limit for submission of a written  
30 grievance.

32                   3. Written response. An employee is entitled to receive a  
34 written response to a written grievance from that employee's  
36 supervisor. The board of trustees shall establish a time limit  
38 for submission of a written response to a written grievance.

40                   4. Referral of unresolved grievance. If the written  
42 response pursuant to subsection 3 does not resolve the grievance,  
44 the employee, within a time period established by the board of  
46 trustees, may refer the grievance to the president of the system.

48                   5. Appointment of mediator; terms of mediation. On  
50 referral under subsection 4, the president of the system,  
consistent with time limits established by rule by the board of  
trustees, shall designate in writing a mediator to hear the  
grievance.

A. All activities related to mediation are confidential,  
except as specified by unanimous written consent of the  
mediator and all parties involved.

B. A grievant may choose another employee in the  
unclassified service of the system to serve as the  
grievant's advisor in the mediation.

C. The burden of proof rests with the grievant.

6. Duties of mediation. Within time limits established by  
rule by the board of trustees, the mediator has the duty to:

A. Review both sides of the grievance;

2 B. Mediate the dispute to an acceptable resolution, if  
3 possible; and

4  
5 C. If a resolution is not possible, issue an advisory  
6 report, in writing, to the president of the system, with a  
7 copy provided at the same time to the grievant.

8  
9 7. President's decision. The president of the system may:

10  
11 A. Accept the written report and advisory decision of the  
12 mediator; or

13  
14 B. Issue an independent decision in writing, with a  
15 statement of reasons for the decision.

16  
17 8. Filing appeal. The grievant has 14 days from receipt of  
18 the decision of the president of the system to appeal in writing  
19 to the chair of the board of trustees, stating the specific  
20 grounds for the appeal.

21  
22 9. Appeals committee; appointment. After receiving an  
23 appeal in writing pursuant to subsection 8, the chair shall  
24 appoint a committee of 3 trustees to hear the appeal at the next  
25 regularly scheduled meeting of the board of trustees.

26  
27 10. Duties of appeals committee. The appeals committee  
28 shall:

29  
30 A. Appoint a chair;

31  
32 B. Set a schedule for:

33  
34 (1) Designation by the parties of the record to be  
35 considered for review;

36  
37 (2) Receipt of the designated record;

38  
39 (3) Submission of written briefs by the parties; and

40  
41 (4) Hearing of oral arguments of the parties;

42  
43 C. Hold a private review hearing at which:

44  
45 (1) No new evidence may be submitted;

46  
47 (2) One hour is allowed for rebuttal, unless the  
48 appeals committee otherwise directs;

49  
50 (3) Each party may be accompanied by a representative,  
chosen by the party; and

2                   (4) At its option, the appeals committee may make  
4                   provisions for a stenographer or tape recorder to  
                    record the proceedings;

6                   D. Review the record, briefs, and oral arguments of the  
8                   parties or their representatives and make a judgment to  
                    affirm, reverse or modify the decision of the president of  
10                   the system; and

12                   E. Issue its decision in writing to the parties and report  
14                   that decision to the full board of trustees at its next  
                    regularly scheduled meeting.

16                   11. Decision final. The decision of the appeals committee  
                    is a final decision.

18

**STATEMENT OF FACT**

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                    This bill establishes grievance procedures for unclassified  
22 employees of the Maine Technical College System who have  
                    complaints concerning the terms or conditions of their  
24 employment. Those procedures include an informal complaint by an  
                    employee to the employee's supervisor, a formal written complaint  
26 to the President of the Maine Technical College System, who  
                    appoints a mediator, and appeal by the grievant to a special  
28 3-person appeals committee of the Board of Trustees of the Maine  
                    Technical College System if the complaint can not be resolved by  
30 mediation and the grievant is not satisfied with the mediator's  
                    decision. The bill establishes procedures for a formal hearing  
32 and final decision by the appeals committee.