

STATE OF NEW YORK

5255

2025-2026 Regular Sessions

IN SENATE

February 20, 2025

Introduced by Sen. JACKSON -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the civil service law, in relation to hearing procedures for certain public employees

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 2 and paragraph (a) of subdivision 2-a of
2 section 75 of the civil service law, subdivision 2 as amended by chapter
3 226 of the laws of 1994 and paragraph (a) of subdivision 2-a as added by
4 chapter 674 of the laws of 2022, are amended and a new subdivision 2-b
5 is added to read as follows:

6 2. Procedure; New York city employees. [An] For any employee in the
7 service of the city of New York described in paragraph (a), (b), (c),
8 (d), or (e) of subdivision one of this section, if such employee [who]
9 at the time of questioning appears to be a potential subject of disci-
10 plinary action, such employee shall have a right to representation by
11 [his or her] their certified or recognized employee organization under
12 article fourteen of this chapter and shall be notified in advance, in
13 writing, of such right. [~~A state employee who is designated managerial~~
14 ~~or confidential under article fourteen of this chapter, shall, at the~~
15 ~~time of questioning, where it appears that such employee is a potential~~
16 ~~subject of disciplinary action, have a right to representation and shall~~
17 ~~be notified in advance, in writing, of such right.~~] If representation is
18 requested a reasonable period of time shall be afforded to obtain such
19 representation. If the employee is unable to obtain representation with-
20 in a reasonable period of time the employer has the right to then ques-
21 tion the employee. A hearing officer under this section shall have the
22 power to find that a reasonable period of time was or was not afforded.
23 In the event the hearing officer finds that a reasonable period of time
24 was not afforded then any and all statements obtained from said ques-
25 tioning as well as any evidence or information obtained as a result of

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD10013-01-5

1 said questioning shall be excluded, provided, however, that this subdi-
2 vision shall not modify or replace any written collective agreement
3 between a public employer and employee organization negotiated pursuant
4 to article fourteen of this chapter. A person against whom removal or
5 other disciplinary action is proposed shall have written notice thereof
6 and of the reasons therefor, shall be furnished a copy of the charges
7 preferred against ~~him~~ such person and shall be allowed at least eight
8 days for answering the same in writing. The hearing upon such charges
9 shall be held by the officer or body having the power to remove the
10 person against whom such charges are preferred, or by a deputy or other
11 person designated by such officer or body in writing for that purpose.
12 In case a deputy or other person is so designated, ~~he~~ they shall, for
13 the purpose of such hearing, be vested with all the powers of such offi-
14 cer or body and shall make a record of such hearing which shall, with
15 ~~his~~ their recommendations, be referred to such officer or body for
16 review and decision. The person or persons holding such hearing shall,
17 upon the request of the person against whom charges are preferred,
18 permit ~~him~~ such person against whom charges are preferred to be
19 represented by counsel, or by a representative of a recognized or certi-
20 fied employee organization, and shall allow ~~him~~ them to summon
21 witnesses in ~~his~~ their behalf. The burden of proving incompetency or
22 misconduct shall be upon the person alleging the same. Compliance with
23 technical rules of evidence shall not be required.

24 (a) Notwithstanding any other provision of law to the contrary,
25 including but not limited to subdivision four of section seventy-six of
26 this title, any paid officer or member of an organized fire company or
27 fire department of a city of less than one million population, or town,
28 village or fire district who is represented by a certified or recognized
29 employee organization pursuant to article fourteen of this chapter shall
30 not be subjected to the penalty of dismissal from service or any other
31 discipline if the hearing, upon such charge, has been conducted by some-
32 one other than an independent hearing officer to be agreed to by the
33 employer and the person against whom disciplinary action is proposed. If
34 the parties are unable to agree upon a hearing officer, the hearing
35 officer shall be selected from a list of seven names to be provided by
36 the public employment relations board. The public employment relations
37 board shall maintain a list of independent hearing officers for this
38 purpose and for the purpose described in subdivision two-b of this
39 section. The parties shall select the hearing officer by alternately
40 striking names from the list of seven. The hearing officer shall be
41 vested with all powers of the appointing authority, shall conduct and
42 make a record of the hearing, and shall render a final decision. The
43 cost incurred in obtaining such independent hearing officer shall be
44 divided equally between the parties; provided that as may be determined
45 upon the circumstances of the case, the hearing officer shall be author-
46 ized to allocate such cost on the basis of the frivolous nature of any
47 claim made or any defense interposed. In order to find a claim or
48 defense to be frivolous, the hearing officer must find at least one of
49 the following:

50 (i) the claim or defense was commenced, used or continued in bad
51 faith, solely to delay or prolong the resolution of the action or to
52 harass or maliciously injure another; or

53 (ii) the claim or defense was commenced or continued in bad faith
54 without any reasonable basis in law or fact. If the claim or defense was
55 promptly discontinued when the party learned or should have learned that
56 the claim or defense lacked such reasonable basis, the hearing officer

1 may find that the party did not act in bad faith. A person served with
2 charges may then, however, elect in writing to proceed with a hearing
3 pursuant to the procedures established in subdivision two of this
4 section in lieu of the procedures set forth in this subdivision.

5 2-b. Procedure; non-New York city employees. For any employee
6 described in paragraph (a), (b), (c), or (e) of subdivision one of this
7 section not in the service of the city of New York, the following proce-
8 cedure shall apply: An employee under this subdivision who at the time of
9 questioning appears to be a potential subject of disciplinary action
10 shall have a right to representation by their certified or recognized
11 employee organization under article fourteen of this chapter and shall
12 be notified in advance, in writing, of such right. A state employee who
13 is designated managerial or confidential under article fourteen of this
14 chapter, shall, at the time of questioning, where it appears that such
15 employee is a potential subject of disciplinary action, have a right to
16 representation and shall be notified in advance, in writing, of such
17 right. If representation is requested a reasonable period of time shall
18 be afforded to obtain such representation. If the employee is unable to
19 obtain representation within a reasonable period of time the employer
20 has the right to then question the employee. A hearing officer under
21 this section shall have the power to find that a reasonable period of
22 time was or was not afforded. In the event the hearing officer finds
23 that a reasonable period of time was not afforded then any and all
24 statements obtained from said questioning as well as any evidence or
25 information obtained as a result of said questioning shall be excluded,
26 provided, however, that this subdivision shall not modify or replace any
27 written collective agreement between a public employer and employee
28 organization negotiated pursuant to article fourteen of this chapter. A
29 person against whom removal or other disciplinary action is proposed
30 shall have written notice thereof and of the reasons thereof, shall be
31 furnished a copy of the charges preferred against such person and shall
32 be allowed at least eight days for answering the same in writing. The
33 hearing upon such charges shall be held by a hearing officer who shall
34 be selected by the mutual agreement of the person against whom discipli-
35 nary action is proposed and of the employing officer or body. If such
36 mutual agreement cannot be reached, then the hearing officer shall be
37 selected from a list of seven names to be provided by the public employ-
38 ment relations board pursuant to subdivision two-a of this section. The
39 parties shall select the hearing officer by alternately striking names
40 from the list of seven. Such hearing officer shall, for the purpose of
41 such hearing, be vested with all the powers of such officer or body and
42 shall make a record of such hearing which shall, with their recommenda-
43 tions and decision, be referred to such officer or body for implementa-
44 tion. The hearing officer holding such hearing shall, upon the request
45 of the person against whom charges are preferred, permit such person
46 against whom charges are preferred to be represented by counsel, or by a
47 representative of a recognized or certified employee organization, and
48 shall allow them to summon witnesses on their behalf. The burden of
49 proving incompetency or misconduct shall be upon the person alleging the
50 same. Compliance with technical rules of evidence shall not be required.
51 The cost incurred in obtaining the independent hearing officer shall be
52 divided equally between the parties; provided that as may be determined
53 upon the circumstances of the case, the hearing officer shall be author-
54 ized to allocate such cost on the basis of the frivolous nature of any
55 claim made or any defense interposed in the manner provided for in para-
56 graph (a) of subdivision two-a of this section. Provided, however, that

the provisions of this subdivision shall not supersede or apply to an existing hearing officer policy and procedure that is the result of a collective bargaining agreement between an employer and a recognized or certified employee organization or any hearing officer policy and procedure currently existing for state employees designated managerial or confidential which was in effect on the effective date of this subdivision.

§ 2. Subdivision 3 of section 75 of the civil service law, as amended by chapter 710 of the laws of 1984, is amended to read as follows:

3. Suspension pending determination of charges; penalties; New York city employees. ~~[Pending]~~ For any employee in the service of the city of New York described in paragraph (a), (b), (c), (d), or (e) of subdivision one of this section, pending the hearing and determination of charges of incompetency or misconduct, the officer or employee against whom such charges have been preferred may be suspended without pay for a period not exceeding thirty days. If such officer or employee is found guilty of the charges, the penalty or punishment may consist of a reprimand, a fine not to exceed one hundred dollars to be deducted from the salary or wages of such officer or employee, suspension without pay for a period not exceeding two months, demotion in grade and title, or dismissal from the service; provided, however, that the time during which an officer or employee is suspended without pay may be considered as part of the penalty. If ~~[he]~~ such officer or employee is acquitted, ~~[he]~~ they shall be restored to ~~[his]~~ their position with full pay for the period of suspension less the amount of any unemployment insurance benefits ~~[he]~~ such officer or employee may have received during such period. If such officer or employee is found guilty, a copy of the charges, ~~[his]~~ their written answer thereto, a transcript of the hearing, and the determination shall be filed in the office of the department or agency in which ~~[he]~~ such officer or employee has been employed, and a copy thereof shall be filed with the civil service commission having jurisdiction over such position. A copy of the transcript of the hearing shall, upon request of the officer or employee affected, be furnished to ~~[him]~~ such officer or employee without charge.

§ 3. Subdivision 3-a of section 75 of the civil service law, as added by chapter 753 of the laws of 1990, is amended and a new subdivision 3-b is added to read as follows:

3-a. Suspension pending determination of charges and penalties relating to police officers of the police department of the city of New York. ~~[Pending]~~ Notwithstanding the provisions of subdivision three of this section, pending the hearing and determination of charges of incompetency or misconduct, a police officer employed by the police department of the city of New York may be suspended without pay for a period not exceeding thirty days. If such officer is found guilty of the charges, the police commissioner of such department may punish the police officer pursuant to the provisions of sections 14-115 and 14-123 of the administrative code of the city of New York.

3-b. Suspension pending determination of charges; penalties; non-New York city employees. For any employee described in paragraph (a), (b), (c), or (e) of subdivision one of this section not in the service of the city of New York, pending the hearing and determination of charges of incompetency or misconduct, the officer or employee against whom such charges have been preferred may be suspended for a period not exceeding thirty days. The suspension shall be with pay. If such officer or employee is found guilty of the charges, the penalty or punishment may consist of a reprimand, a fine not to exceed one hundred dollars to be

1 deducted from the salary or wages of such officer or employee, suspen-
2 sion without pay for a period not exceeding two months, demotion in
3 grade and title, or dismissal from the service. If such officer or
4 employee is acquitted, they shall be restored to their position. If such
5 officer or employee is found guilty, a copy of the charges, their writ-
6 ten answer thereto, a transcript of the hearing, and the determination
7 shall be filed in the office of the department or agency in which such
8 officer or employee has been employed, and a copy thereof shall be filed
9 with the civil service commission having jurisdiction over such posi-
10 tion. A copy of the transcript of the hearing shall, upon request of the
11 officer or employee affected, be furnished to such officer or employee
12 without charge.

13 § 4. This act shall take effect immediately.