

# HOUSE BILL 238

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9lr1449  
CF 9lr2134

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By: **Delegates Atterbeary, Ebersole, Hill, Miller, Pendergrass, Shetty, and Terrasa**  
Introduced and read first time: January 24, 2019  
Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Education – Removal of County Superintendents – Procedures**

3 FOR the purpose of authorizing a county board of education to file a complaint with the  
4 State Superintendent of Schools requesting the removal of a county superintendent  
5 of schools; specifying the manner in which a county board may file a certain  
6 complaint; requiring the State Superintendent to make a decision to remove or retain  
7 a county superintendent within a certain period of time; requiring the State  
8 Superintendent to provide a county board with a written explanation of a certain  
9 decision; altering the period of time within which a county superintendent may  
10 request a hearing after being removed; establishing a period of time during which  
11 the State Superintendent may hold a certain hearing under certain circumstances;  
12 authorizing a county superintendent to request arbitration under certain  
13 circumstances; specifying the procedures for arbitration; assigning responsibility for  
14 certain costs; providing that an arbitrator's decision and award is final and binding  
15 on the parties, subject to review by a circuit court; authorizing the county  
16 superintendent or, under certain circumstances, the county board to appeal a certain  
17 decision to the State Board of Education; making stylistic changes; and generally  
18 relating to the procedures for removing a county superintendent of schools.

19 BY repealing and reenacting, with amendments,  
20 Article – Education  
21 Section 4–201  
22 Annotated Code of Maryland  
23 (2018 Replacement Volume and 2018 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
25 That the Laws of Maryland read as follows:

26 **Article – Education**

27 4–201.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) (1) This section does not apply to Baltimore City.

2 (2) Subsections (b), (c), (d), and (f) of this section do not apply in Prince  
3 George's County.

4 (b) (1) The term of a county superintendent is 4 years beginning on July 1. A  
5 county superintendent continues to serve until a successor is appointed and qualifies.

6 (2) By February 1 of the year in which a term ends, the county  
7 superintendent shall notify the county board whether the superintendent is a candidate for  
8 reappointment.

9 (3) In the year in which a term begins, the county board shall appoint a  
10 county superintendent between February 1 and June 30. However, if the county board  
11 decides to reappoint the incumbent superintendent, the county board shall take final action  
12 at a public meeting no later than March 1 of that year.

13 (4) If a county board is unable to appoint a county superintendent by July  
14 1 of a year in which a term begins, the provisions of subsection (d) of this section apply.

15 (c) (1) An individual may not be appointed as county superintendent unless  
16 the individual:

17 (i) Is eligible to be issued a certificate for the office by the State  
18 Superintendent;

19 (ii) Has graduated from an accredited college or university; and

20 (iii) Has completed 2 years of graduate work at an accredited college  
21 or university, including public school administration, supervision, and methods of teaching.

22 (2) The appointment of a county superintendent is not valid unless  
23 approved in writing by the State Superintendent.

24 (3) If the State Superintendent disapproves an appointment, [he] **THE**  
25 **STATE SUPERINTENDENT** shall give [his] **THE** reasons for disapproval in writing to the  
26 county board.

27 (d) If a vacancy occurs in the office of county superintendent, the county board  
28 shall appoint an interim county superintendent who serves until July 1 after [his] **THE**  
29 **INTERIM COUNTY SUPERINTENDENT'S** appointment.

30 (e) (1) **[The] SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE**  
31 State Superintendent may remove a county superintendent for:

32 (i) Immorality;

1 (ii) Misconduct in office;

2 (iii) Insubordination;

3 (iv) Incompetency; or

4 (v) Willful neglect of duty.

5 **(2) (I) A COUNTY BOARD MAY FILE A COMPLAINT WITH THE STATE**  
6 **SUPERINTENDENT REQUESTING THE REMOVAL OF THE COUNTY SUPERINTENDENT**  
7 **UNDER THIS SUBSECTION.**

8 **(II) IN FILING A COMPLAINT UNDER THIS PARAGRAPH, THE**  
9 **COUNTY BOARD SHALL PROVIDE, IN A MANNER PRESCRIBED BY THE STATE**  
10 **SUPERINTENDENT:**

11 **1. THE REASON FOR REMOVAL, CHOSEN FROM ONE OR**  
12 **MORE OF THE ITEMS IN PARAGRAPH (1) OF THIS SUBSECTION; AND**

13 **2. DOCUMENTATION SUPPORTING THE CASE FOR**  
14 **REMOVAL.**

15 **(III) WITHIN 90 DAYS OF RECEIVING A COMPLAINT UNDER THIS**  
16 **PARAGRAPH, THE STATE SUPERINTENDENT SHALL MAKE A DECISION TO REMOVE**  
17 **OR RETAIN THE COUNTY SUPERINTENDENT.**

18 **(IV) THE STATE SUPERINTENDENT SHALL PROVIDE THE**  
19 **COUNTY BOARD WITH A WRITTEN EXPLANATION OF THE REASON FOR THE STATE**  
20 **SUPERINTENDENT'S DECISION.**

21 **[(2)] (3) Before removing a county superintendent, the State**  
22 **Superintendent shall send the county superintendent a copy of the charges against the**  
23 **county superintendent and give the county superintendent an opportunity within [10] 30**  
24 **days to request[a]:**

25 **(I) A hearing BEFORE THE STATE SUPERINTENDENT; OR**

26 **(II) A HEARING BEFORE AN ARBITRATOR IN ACCORDANCE WITH**  
27 **PARAGRAPH (5) OF THIS SUBSECTION.**

28 **[(3)] (4) If the county superintendent requests a hearing BEFORE THE**  
29 **STATE SUPERINTENDENT within the [10-day] 30-DAY period:**

1 (i) The State Superintendent promptly shall hold a hearing[, but a  
2 hearing may not be set within 10] **THAT SHALL BE SET:**

3 **1. NOT EARLIER THAN 11** days after the State  
4 Superintendent sends the county superintendent a notice of the hearing; **AND**

5 **2. IF THE DECISION FOR REMOVAL ORIGINATED FROM A**  
6 **COMPLAINT UNDER PARAGRAPH (2) OF THIS SUBSECTION, WITHIN 90 DAYS OF**  
7 **RECEIVING A COMPLAINT FROM THE COUNTY BOARD; and**

8 (ii) The county superintendent shall have an opportunity to be heard  
9 publicly before the State Superintendent in the county superintendent's own defense, in  
10 person or by counsel.

11 **(5) (I) IF THE COUNTY SUPERINTENDENT REQUESTS A HEARING**  
12 **BEFORE AN ARBITRATOR WITHIN THE 30-DAY PERIOD, THE HEARING SHALL BE**  
13 **CONDUCTED IN ACCORDANCE WITH THIS PARAGRAPH.**

14 **(II) 1. AN ARBITRATOR SHALL BE SELECTED AS PROVIDED**  
15 **IN THIS SUBPARAGRAPH.**

16 **2. IF THE STATE SUPERINTENDENT AND THE COUNTY**  
17 **SUPERINTENDENT AGREE ON AN ARBITRATOR, THE ARBITRATOR SHALL BE CHOSEN**  
18 **BY MUTUAL AGREEMENT OF THE PARTIES.**

19 **3. IF THE STATE SUPERINTENDENT AND THE COUNTY**  
20 **SUPERINTENDENT CANNOT AGREE ON AN ARBITRATOR:**

21 **A. THE COUNTY BOARD SHALL REQUEST FROM THE**  
22 **AMERICAN ARBITRATION ASSOCIATION A LIST OF THE ARBITRATORS THAT ARE**  
23 **AVAILABLE TO HEAR THIS TYPE OF DISPUTE AND MAKE A DECISION IN A TIMELY**  
24 **MANNER; AND**

25 **B. THE PARTIES ALTERNATELY SHALL STRIKE**  
26 **ARBITRATORS FROM THE LIST.**

27 **(III) A STENOGRAPHIC RECORD SHALL BE MADE OF THE**  
28 **PROCEEDINGS BEFORE THE ARBITRATOR.**

29 **(IV) 1. THE ARBITRATOR SHALL DETERMINE WHETHER THE**  
30 **STATE SUPERINTENDENT HAS SUFFICIENT CAUSE FOR REMOVAL OF THE COUNTY**  
31 **SUPERINTENDENT.**

1                   **2. A LESSER PENALTY THAN REMOVAL MAY BE IMPOSED**  
2 **BY THE ARBITRATOR ONLY TO THE EXTENT THAT EITHER PARTY PROPOSES THE**  
3 **LESSER PENALTY IN THE PROCEEDING.**

4                   **(v) 1. THE STATE SUPERINTENDENT AND THE COUNTY**  
5 **SUPERINTENDENT SHALL PAY THEIR OWN RESPECTIVE COSTS AND EXPENSES**  
6 **ASSOCIATED WITH ANY WITNESS OR EVIDENCE PRODUCED BY THE RESPECTIVE**  
7 **PARTIES.**

8                   **2. IF THE ARBITRATOR DETERMINES THAT THE STATE**  
9 **SUPERINTENDENT HAD SUFFICIENT CAUSE TO REMOVE THE COUNTY**  
10 **SUPERINTENDENT, THE COUNTY SUPERINTENDENT SHALL PAY THE FEES AND**  
11 **EXPENSES INCURRED OR CHARGED BY THE ARBITRATOR AND THE ADMINISTRATIVE**  
12 **FEES, IF ANY, OF THE AMERICAN ARBITRATION ASSOCIATION.**

13                   **3. IF THE ARBITRATOR DETERMINES THAT THE STATE**  
14 **SUPERINTENDENT DID NOT HAVE SUFFICIENT CAUSE TO REMOVE THE COUNTY**  
15 **SUPERINTENDENT, THE STATE SHALL PAY THE FEES AND EXPENSES INCURRED OR**  
16 **CHARGED BY THE ARBITRATOR AND THE ADMINISTRATIVE FEES, IF ANY, OF THE**  
17 **AMERICAN ARBITRATION ASSOCIATION.**

18                   **(vi) 1. THE DECISION AND AWARD BY THE ARBITRATOR ARE**  
19 **FINAL AND BINDING ON THE PARTIES.**

20                   **2. AN INDIVIDUAL MAY REQUEST JUDICIAL REVIEW BY A**  
21 **CIRCUIT COURT, WHICH SHALL BE GOVERNED BY THE MARYLAND UNIFORM**  
22 **ARBITRATION ACT.**

23                   **(6) THE COUNTY SUPERINTENDENT OR, IN CASES ORIGINATING FROM**  
24 **A COMPLAINT OF THE COUNTY BOARD UNDER PARAGRAPH (2) OF THIS SUBSECTION,**  
25 **THE COUNTY BOARD MAY APPEAL THE DECISION OF THE STATE SUPERINTENDENT**  
26 **TO THE STATE BOARD.**

27                   (f) On notification of pending criminal charges against a county superintendent  
28 as provided under § 4-206 of this subtitle, the county board may suspend the county  
29 superintendent with pay until the final disposition of the criminal charges.

30                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
31 1, 2019.