

HOUSE BILL 1228

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By: **Delegates A. Washington, Ebersole, Fennell, Frush, C. Howard, Knotts,
Luedtke, McCray, Patterson, and Tarlau**

Introduced and read first time: February 12, 2016

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Education – Grounds for Discipline**

3 FOR the purpose of altering certain procedures for suspending or dismissing certain public
4 school personnel; authorizing certain school personnel to request arbitration under
5 certain circumstances; specifying the procedures for arbitration; providing that an
6 arbitrator's award is final and binding on the parties, subject to review by a circuit
7 court; and generally relating to procedures for suspending or dismissing certain
8 public school personnel.

9 BY repealing and reenacting, with amendments,
10 Article – Education
11 Section 6–202
12 Annotated Code of Maryland
13 (2014 Replacement Volume and 2015 Supplement)

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

16 **Article – Education**

17 6–202.

18 (a) (1) On the recommendation of the county superintendent, a county board
19 may suspend or dismiss a teacher, principal, supervisor, assistant superintendent, or other
20 professional assistant for:

21 (i) Immorality;

22 (ii) Misconduct in office, including knowingly failing to report
23 suspected child abuse in violation of § 5–704 of the Family Law Article;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (iii) Insubordination;
- 2 (iv) Incompetency; or
- 3 (v) Willful neglect of duty.

4 (2) (I) Before removing an individual, the county board shall send the
5 individual a copy of the charges against [him] **THE INDIVIDUAL** and give [him] **THE**
6 **INDIVIDUAL** an opportunity within 10 days to request [a]:

- 7 1. **A hearing BEFORE THE COUNTY BOARD; OR**
- 8 2. **A HEARING BEFORE AN ARBITRATOR IN ACCORDANCE**
9 **WITH PARAGRAPH (5) OF THIS SUBSECTION.**

10 (II) **IF AN INDIVIDUAL'S REQUEST DOES NOT SPECIFY THAT THE**
11 **HEARING BE BEFORE AN ARBITRATOR, THE REQUEST SHALL BE CONSIDERED A**
12 **REQUEST FOR A HEARING BEFORE THE COUNTY BOARD.**

13 (3) If the individual requests a hearing **BEFORE THE COUNTY BOARD**
14 within the 10-day period:

15 (i) The county board promptly shall hold a hearing, but a hearing
16 may not be set within 10 days after the county board sends the individual a notice of the
17 hearing; and

18 (ii) The individual shall have an opportunity to be heard before the
19 county board, in person or by counsel, and to bring witnesses to the hearing.

20 (4) The individual may appeal from the decision of the county board to the
21 State Board.

22 (5) **IF THE INDIVIDUAL OR THE INDIVIDUAL'S REPRESENTATIVE**
23 **REQUESTS A HEARING BEFORE AN ARBITRATOR WITHIN THE 10-DAY PERIOD:**

24 (I) 1. **AN ARBITRATOR SHALL BE SELECTED AS PROVIDED**
25 **IN THIS SUBPARAGRAPH;**

26 2. **IF THE PARTIES AGREE ON AN ARBITRATOR, THE**
27 **ARBITRATOR SHALL BE CHOSEN BY MUTUAL AGREEMENT OF THE PARTIES; AND**

28 3. **IF THE PARTIES CANNOT AGREE ON AN ARBITRATOR:**

1 **A. THE COUNTY BOARD SHALL REQUEST FROM THE**
2 **AMERICAN ARBITRATION ASSOCIATION A LIST OF ARBITRATORS THAT ARE**
3 **AVAILABLE TO HEAR THIS TYPE OF DISPUTE AND MAKE A DECISION IN A TIMELY**
4 **MANNER;**

5 **B. THE PARTIES SHALL ALTERNATELY STRIKE**
6 **ARBITRATORS FROM THE LIST; AND**

7 **C. THE RULES OF LABOR ARBITRATION SHALL APPLY;**

8 **(II) 1. THE ARBITRATOR SHALL DETERMINE WHETHER THE**
9 **COUNTY BOARD HAS SUFFICIENT CAUSE FOR SUSPENSION OR TERMINATION OF THE**
10 **INDIVIDUAL;**

11 **2. A LESSER PENALTY THAN TERMINATION MAY BE**
12 **IMPOSED BY THE ARBITRATOR ONLY TO THE EXTENT THAT EITHER PARTY**
13 **PROPOSES THE LESSER PENALTY IN THE PROCEEDING; AND**

14 **3. IN RENDERING A DECISION, THE ARBITRATION**
15 **PROCEEDING IS GOVERNED BY THIS SUBTITLE AND BY THE COLLECTIVE**
16 **BARGAINING AGREEMENT APPLICABLE TO THE INDIVIDUAL; AND**

17 **(III) 1. THE AWARD BY THE ARBITRATOR IS FINAL AND**
18 **BINDING ON THE PARTIES; AND**

19 **2. A PARTY MAY REQUEST JUDICIAL REVIEW BY A**
20 **CIRCUIT COURT.**

21 **[(5)] (6)** Notwithstanding any provision of local law, in Baltimore City the
22 suspension and removal of assistant superintendents and higher levels shall be as provided
23 by the personnel system established by the Baltimore City Board of School Commissioners
24 under § 4-311 of this article.

25 (b) (1) Except as provided in paragraph (3) of this subsection, the probationary
26 period of employment of a certificated employee in a local school system shall cover a period
27 of 3 years from the date of employment and shall consist of a 1-year employment contract
28 that may be renewed by the county board.

29 (2) (i) A county board shall evaluate annually a nontenured certificated
30 employee based on established performance evaluation criteria.

31 (ii) Subject to subparagraph (iii) of this paragraph, if the nontenured
32 certificated employee is not on track to qualify for tenure at any formal evaluation point:

1 1. A mentor promptly shall be assigned to the employee to
2 provide the employee comprehensive guidance and instruction; and

3 2. Additional professional development shall be provided to
4 the employee, as appropriate.

5 (iii) Nothing in this paragraph shall be construed to prohibit a county
6 board from assigning a mentor at any time during a nontenured certificated employee's
7 employment.

8 (3) (i) Subject to subparagraph (ii) of this paragraph, if a certificated
9 employee has achieved tenure in a local school system in the State and moves to another
10 local school system in the State, that employee shall be tenured if the employee's contract
11 is renewed after 1 year of probationary employment in the local school system to which the
12 employee relocated if:

13 1. The employee's final evaluation in the local school system
14 from which the employee departed is satisfactory or better; and

15 2. There has been no break in the employee's service between
16 the two systems of longer than 1 year.

17 (ii) A local school system may extend the probationary period for a
18 certificated employee subject to subparagraph (i) of this paragraph for a second year from
19 the date of employment if:

20 1. The employee does not qualify for tenure at the end of the
21 first year based on established performance evaluation criteria; and

22 2. The employee demonstrates a strong potential for
23 improvement.

24 (4) (i) The State Board shall adopt regulations that implement the
25 provisions of paragraphs (1) and (2) of this subsection and define the scope of a mentoring
26 program and professional development that will be aligned with the 3-year probationary
27 period.

28 (ii) The State Board shall adopt regulations to establish standards
29 for effective mentoring, including provisions to ensure that mentors provide mentoring
30 that:

31 1. Is focused;

32 2. Is systematic;

33 3. Is ongoing;

- 1 4. Is of high quality;
- 2 5. Is geared to the needs of each employee being mentored;
- 3 6. Includes observations; and
- 4 7. Includes feedback.

5 (c) (1) In this subsection, “student growth” means student progress assessed
6 by multiple measures and from a clearly articulated baseline to one or more points in time.

7 (2) (i) Subject to subparagraph (iii) of this paragraph, the State Board
8 shall adopt regulations that establish general standards for performance evaluations for
9 certificated teachers and principals that include observations, clear standards, rigor, and
10 claims and evidence of observed instruction.

11 (ii) The regulations adopted under subparagraph (i) of this
12 paragraph shall include default model performance evaluation criteria.

13 (iii) Before the proposal of the regulations required under this
14 paragraph, the State Board shall solicit information and recommendations from each local
15 school system and convene a meeting wherein this information and these recommendations
16 are discussed and considered.

17 (3) Subject to paragraph (6) of this subsection:

18 (i) A county board shall establish performance evaluation criteria
19 for certificated teachers and principals in the local school system based on the general
20 standards adopted under paragraph (2) of this subsection that are mutually agreed on by
21 the local school system and the exclusive employee representative.

22 (ii) Nothing in this paragraph shall be construed to require mutual
23 agreement under subparagraph (i) of this paragraph to be governed by Subtitles 4 and 5 of
24 this title.

25 (4) Subject to paragraph (7) of this subsection, the performance evaluation
26 criteria developed under paragraph (3) of this subsection:

27 (i) Shall include data on student growth as a significant component
28 of the evaluation and as one of multiple measures; and

29 (ii) May not be based solely on an existing or newly created single
30 examination or assessment.

31 (5) (i) An existing or newly created single examination or assessment
32 may be used as one of the multiple measures.

1 (ii) No single criterion shall account for more than 35% of the total
2 performance evaluation criteria.

3 (6) If a local school system and the exclusive employee representative fail
4 to mutually agree under paragraph (3) of this subsection, the default model performance
5 evaluation criteria adopted by the State Board under paragraph (2)(ii) of this subsection
6 shall take effect in the local jurisdiction 6 months following the final adoption of the
7 regulations.

8 (7) Any performance evaluation criteria developed under this subsection
9 may not require student growth data based on State assessments to be used to make
10 personnel decisions before the 2016–2017 school year.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2016.