

# HOUSE BILL 1075

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By: **Delegates Ivey, Acevero, Attar, Cain, Charles, Ebersole, Feldmark, Fennell, Guyton, Smith, Washington, Wilkins, and P. Young**

Introduced and read first time: February 6, 2020

Assigned to: Ways and Means

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 12, 2020

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public School Employees – Whistleblower Protection – Civil Actions**

3 FOR the purpose of repealing a prerequisite that a certain public school employee who is  
4 subject to a certain prohibited personnel action shall exhaust any administrative  
5 remedies before instituting a certain civil action; authorizing any public school  
6 employee who is subject to a certain personnel action to file an administrative  
7 complaint with a public school employer; requiring a public school employer to  
8 provide an administrative remedial process for a public school employee who files a  
9 certain administrative complaint; requiring a public school employer to complete a  
10 certain administrative remedial process within a certain number of days after a  
11 public school employee files an initial administrative complaint; requiring a public  
12 school employee who is subject to a certain personnel action, before instituting a civil  
13 action, to notify the local superintendent of schools in writing of the employee's  
14 intention to institute a civil action; altering the amount of time in which a public  
15 school employee is required to bring a certain action; and generally relating to  
16 whistleblower protection for public school employees.

17 BY repealing and reenacting, without amendments,  
18 Article – Education  
19 Section 6–901 through 6–903  
20 Annotated Code of Maryland  
21 (2018 Replacement Volume and 2019 Supplement)

22 BY repealing and reenacting, with amendments,

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Education  
2 Section 6–904  
3 Annotated Code of Maryland  
4 (2018 Replacement Volume and 2019 Supplement)

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

7 **Article – Education**

8 6–901.

9 (a) In this subtitle the following words have the meanings indicated.

10 (b) (1) “Public school employee” means any individual who is employed by a  
11 public school employer or an individual of equivalent status in Baltimore City.

12 (2) “Public school employee” does not include a State employee.

13 (c) “Public school employer” means a county board of education or the Baltimore  
14 City Board of School Commissioners.

15 (d) “Supervisor” means any individual within an employer’s organization who has  
16 the authority to direct and control the work performance of an employee, or who has  
17 managerial authority to take corrective action regarding the violation of a law, rule, or  
18 regulation of which the employee complains.

19 6–902.

20 Subject to § 6–903 of this subtitle, a public school employer may not take or refuse  
21 to take any personnel action as reprisal against a public school employee because the  
22 employee:

23 (1) Discloses or threatens to disclose to a supervisor an activity, a policy, or  
24 a practice of the employer that is in violation of a law, rule, or regulation;

25 (2) Provides information to or testifies before any public body conducting  
26 an investigation, a hearing, or an inquiry into any violation of a law, rule, or regulation by  
27 the employer; or

28 (3) Objects to or refuses to participate in any activity, policy, or practice in  
29 violation of a law, rule, or regulation.

30 6–903.

31 The protection provided against a violation of § 6–902 of this subtitle shall apply only  
32 if:

1 (1) The public school employee has a reasonable, good faith belief that the  
2 public school employer has, or still is, engaged in an activity, a policy, or a practice that is  
3 in violation of a law, rule, or regulation;

4 (2) The public school employee discloses information that the employee  
5 reasonably believes evidences:

6 (i) An abuse of authority, gross mismanagement, or gross waste of  
7 money;

8 (ii) A substantial and specific danger to public health or safety; or

9 (iii) A violation of law; and

10 (3) The public school employee has reported the activity, policy, or practice  
11 to a supervisor or an administrator of the public school employer in writing and afforded  
12 the employer a reasonable opportunity to correct the activity, policy, or practice.

13 6-904.

14 (a) **(1) ~~[A public school employee shall exhaust any administrative remedies~~**  
15 **~~before instituting a civil action under this section. ANY PUBLIC SCHOOL EMPLOYEE WHO~~**  
16 **IS SUBJECT TO A PERSONNEL ACTION IN VIOLATION OF § 6-902 OF THIS SUBTITLE**  
17 **MAY FILE AN ADMINISTRATIVE COMPLAINT WITH A PUBLIC SCHOOL EMPLOYER.**

18 **(2) A PUBLIC SCHOOL EMPLOYER SHALL:**

19 **(I) PROVIDE AN ADMINISTRATIVE REMEDIAL PROCESS FOR A**  
20 **PUBLIC SCHOOL EMPLOYEE WHO FILES AN ADMINISTRATIVE COMPLAINT UNDER**  
21 **PARAGRAPH (1) OF THIS SUBSECTION; AND**

22 **(II) COMPLETE THE ADMINISTRATIVE REMEDIAL PROCESS**  
23 **UNDER ITEM (I) OF THIS PARAGRAPH WITHIN 30 DAYS AFTER A PUBLIC SCHOOL**  
24 **EMPLOYEE FILES AN INITIAL ADMINISTRATIVE COMPLAINT.**

25 **(b)† (1) ~~Any~~ BEFORE INSTITUTING A CIVIL ACTION, A PUBLIC SCHOOL**  
26 **EMPLOYEE WHO IS SUBJECT TO A PERSONNEL ACTION IN VIOLATION OF § 6-902 OF**  
27 **THIS SUBTITLE SHALL NOTIFY THE LOCAL SUPERINTENDENT IN WRITING OF THE**  
28 **EMPLOYEE'S INTENTION TO INSTITUTE A CIVIL ACTION.**

29 **(2) SUBJECT TO PARAGRAPH (1) OF THIS SUBSECTION, ANY** public  
30 school employee who is subject to a personnel action in violation of § 6-902 of this subtitle  
31 may institute a civil action in the county where:

32 ~~(1)~~ **(I)** The alleged violation occurred;

1           ~~(2)~~ **(II)**       The employee resides; or

2           ~~(3)~~ **(III)**       The public school employer maintains its principal offices in the  
3 State.

4           **[(c)]** ~~(B)~~   **(3)**       The action shall be brought within ~~6~~ **9** months after the alleged  
5 violation of § 6-902 of this subtitle occurred, or within ~~6~~ **9** months after the public school  
6 employee first became aware of the alleged violation of § 6-902 of this subtitle.

7           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
8 1, 2020.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.