

HOUSE BILL 1254

F1
HB 1075/20 – W&M

11r2865

By: **Delegate Ivey**

Introduced and read first time: February 8, 2021

Assigned to: Ways and Means

A BILL ENTITLED

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 within 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 2020 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – Education
24 Section 6–904
25 Annotated Code of Maryland
26 (2018 Replacement Volume and 2020 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Education

1

2 6–901.

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

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

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

7 (c) “Public school employer” means a county board of education or the Baltimore
8 City Board of School Commissioners.9 (d) “Supervisor” means any individual within an employer’s organization who has
10 the authority to direct and control the work performance of an employee, or who has
11 managerial authority to take corrective action regarding the violation of a law, rule, or
12 regulation of which the employee complains.

13 6–902.

14 Subject to § 6–903 of this subtitle, a public school employer may not take or refuse
15 to take any personnel action as reprisal against a public school employee because the
16 employee:17 (1) Discloses or threatens to disclose to a supervisor an activity, a policy, or
18 a practice of the employer that is in violation of a law, rule, or regulation;19 (2) Provides information to or testifies before any public body conducting
20 an investigation, a hearing, or an inquiry into any violation of a law, rule, or regulation by
21 the employer; or22 (3) Objects to or refuses to participate in any activity, policy, or practice in
23 violation of a law, rule, or regulation.

24 6–903.

25 The protection provided against a violation of § 6–902 of this subtitle shall apply only
26 if:27 (1) The public school employee has a reasonable, good faith belief that the
28 public school employer has, or still is, engaged in an activity, a policy, or a practice that is
29 in violation of a law, rule, or regulation;30 (2) The public school employee discloses information that the employee
31 reasonably believes evidences:

1 (i) An abuse of authority, gross mismanagement, or gross waste of
2 money;

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

4 (iii) A violation of law; and

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

8 6–904.

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

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

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

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

20 (b) **(1)** [Any] **BEFORE INSTITUTING A CIVIL ACTION, A PUBLIC SCHOOL**
21 **EMPLOYEE WHO IS SUBJECT TO A PERSONNEL ACTION IN VIOLATION OF § 6–902 OF**
22 **THIS SUBTITLE SHALL NOTIFY THE LOCAL SUPERINTENDENT IN WRITING OF THE**
23 **EMPLOYEE’S INTENTION TO INSTITUTE A CIVIL ACTION.**

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

27 **[(1)] (I)** The alleged violation occurred;

28 **[(2)] (II)** The employee resides; or

29 **[(3)] (III)** The public school employer maintains its principal offices in the
30 State.

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

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
5 1, 2021.