

HOUSE BILL 1322

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EMERGENCY BILL

11r2973

By: **Delegate Washington**

Introduced and read first time: February 8, 2021

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 5, 2021

CHAPTER _____

1 AN ACT concerning

2 **Primary and Secondary Education – School Personnel – Prohibition on**
3 **Retaliation for Not Returning to In–Person Instruction and Work**

4 FOR the purpose of prohibiting the Governor, the State Superintendent of Schools, the
5 State Board of Education, a county superintendent, and a county board of education,
6 during a certain school year, from disciplining, suspending, terminating, or
7 otherwise retaliating against certain school personnel under certain circumstances;
8 prohibiting the Governor, the State Superintendent, and the State Board, during a
9 certain school year, from revoking a certain certification under certain
10 circumstances; requiring the State Board and county boards to allow certain school
11 personnel to instruct and work in a certain manner under certain circumstances;
12 requiring a county board to make certain accommodations for certain school
13 personnel under certain circumstances; making this Act an emergency measure; and
14 generally relating to the prohibition on retaliation against school personnel for not
15 returning to a school building for in–person instruction and work.

16 Preamble

17 WHEREAS, The COVID–19 pandemic has had a profound impact on education and
18 the operation of Maryland schools; and

19 WHEREAS, Educational and governmental leaders have a responsibility to work
20 cooperatively with educators, parents, students, county boards of education, and
21 community members in developing plans to safely return students to schools; and

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 WHEREAS, On January 21, 2021, the Governor and the State Superintendent of
2 Schools abruptly and without adequately consulting with stakeholders announced
3 significant revisions to the State Department of Education’s Maryland School Reopening
4 Guidance; and

5 WHEREAS, The Governor referenced retaliatory action in other states against
6 educators and indicated that the Office of the Governor and the State Department of
7 Education would use “every legal avenue” to force a return to in-person instruction
8 regardless of local conditions and the preferences of local communities; and

9 WHEREAS, The State Department of Education has consistently failed to work
10 collaboratively with stakeholders in school communities to develop plans for the safe
11 reopening of schools, and for much of the course of the COVID-19 pandemic, has refused
12 to meet with the democratically elected leadership of the teaching profession; and

13 WHEREAS, Educators and other school personnel, particularly those with a high
14 risk of serious complications from COVID-19, should have the opportunity to be fully
15 vaccinated before returning to in-person instruction and work; now, therefore,

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
17 That, notwithstanding any other provision of law:

18 (a) During the 2020-2021 school year, the Governor, the State Superintendent of
19 Schools, the State Board of Education, a county superintendent, and a county board of
20 education may not discipline, suspend, terminate, or otherwise retaliate against a teacher,
21 an educational support professional, or any other professional school personnel if the
22 individual:

23 (1) (i) is at least 65 years old;

24 (ii) has an underlying medical condition that the Centers for Disease
25 Control and Prevention has identified as putting the individual at increased risk from
26 COVID-19; ~~or~~

27 (iii) lives in a household with or is the caretaker of an individual who
28 is at least 65 years old or who has an underlying medical condition that the Centers for
29 Disease Control and Prevention has identified as putting the individual at increased risk
30 from COVID-19; or

31 (iv) is a teacher, educational support professional, or other
32 professional school personnel who is allowed to instruct or work remotely under subsection
33 (c) of this section;

34 (2) has not received the full course of an FDA-approved vaccine for
35 COVID-19; and

36 (3) chooses not to return to the school building for in-person instruction.

1 (b) The Governor, the State Superintendent of Schools, and the State Board of
2 Education may not suspend or revoke State certification of a teacher or other professional
3 personnel as a consequence of the individual's choosing to not return to the school building
4 for in-person instruction during the 2020–2021 school year.

5 (c) (1) Consistent with applicable laws and labor agreements, during a state
6 of emergency related to the COVID–19 pandemic, the State Board of Education and county
7 boards of education shall allow teachers, educational support professionals, and other
8 professional school personnel who have not received the full course of an FDA–approved
9 vaccine for COVID–19 to instruct or work remotely to the extent practicable.

10 (2) If a teacher, an educational support professional, or any other
11 professional school personnel chooses to instruct or work remotely in accordance with this
12 subsection, the county board of education shall make accommodations for the teacher,
13 educational support professional, or other professional school personnel to facilitate the
14 choice.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
16 measure, is necessary for the immediate preservation of the public health or safety, has
17 been passed by a yea and nay vote supported by three–fifths of all the members elected to
18 each of the two Houses of the General Assembly, and shall take effect from the date it is
19 enacted.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.