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Bill: HB 1322 – Primary and Secondary Education – School Personnel – Prohibition on Retaliation for Not Returning to In-Person Instruction and Work
Date: March 30, 2021
Position: Oppose
Committee: Senate Education, Health and Environmental Affairs Committee
Contact: Mary Pat Fannon, Executive Director

This legislation prohibits the Governor, the State Superintendent of Schools, the State Board of Education, a county superintendent, and a county board of education from disciplining, suspending, terminating, or otherwise retaliating against school personnel who choose not to return to a school building for in-person instruction during the 2020-2021 school year; it requires the State Board and county boards to allow certain school personnel to instruct and work remotely to the extent practicable during the 2020-2021 school year; etc.

The Public Schools Superintendents' Association of Maryland (PSSAM) **opposes** HB 1322.

Every Maryland school system has processes in place for employer work accommodations, approving leaves of absence, and telework opportunities for employees who qualify based on certain medical criteria, or are providing care for a family member meeting certain medical criterion. These processes align with guidelines from the Centers for Disease Control and Prevention, as well as State and local governments.

During this pandemic, every superintendent and local board of education has gone to extraordinary lengths to support staff and families, but this legislation delves much further into employment law that governs superintendents' duties and rights relating to employee matters. While the legislation's intent may be to protect vulnerable workers from returning to in-person teaching, the legislation goes well beyond that well-meaning safeguard.

The bill not only cover teachers, but includes "educational support professionals;" this was likely meant to cover school administrators, PPWs, school counselors, etc., who are more commonly referred to as "certificated employees." However, if the legislation is intended to cover non-certificated instructional assistants and others who support education, many of those employees could not perform their jobs remotely as envisioned by this bill. This includes those who need to physically be in the school building to supervise students or other employees, as well as janitorial staff. This bill assumes that all employees can do their jobs remotely, which we know is not possible.

The bill allows certain non-vaccinated employees to work from home, but this assumes that LEAs track those who receive the vaccine. In fact, many LEAs do not collect this information for confidentiality reasons, or it is self-reported. The validity of self-reporting is a problem; and, this could have the unfortunate effect of discouraging some employees from getting the vaccine if they do not want to return to in-person teaching.

Local superintendents understand the traumatic impact this pandemic has had on every member of our school communities – students, staff and families. We appreciate the Legislature’s support as we continue to work in conjunction with our member organizations at the local level to respond to the unique challenges and working conditions specific to each school system.

For the reasons stated above, PSSAM **opposes HB 1322** and requests an **unfavorable** committee report.