

HB1322 (MSC Testimony).pdf

Uploaded by: DiPietro, Jonathon

Position: FAV

BILL: **HB 1322 - Primary and Secondary Education - School Personnel - Prohibition on Retaliation for Not Returning to In-Person Instruction and Work**

SPONSOR: **Delegate Alonzo Washington**

POSITION: **FAVORABLE**

Friday, March 26, 2021

HB 1322

Chair Pinsky, Vice Chair Kagan, and Members of the Education, Health, and Environmental Affairs Committee. We are writing in favor of HB 1322.

The Maryland Student Coalition (“MSC”) supports House Bill 1322, which “prohibits the Governor, the State Superintendent of Schools, the State Board of Education, a county superintendent, or 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.” Additionally, HB 1322 provides Americans with Disabilities Act (ADA) protections, allowing school personnel to instruct and work remotely, to the extent practicable, during the 2020-2021 school year.

As students, it is essential that our educators are at their best, and with the continuation of the COVID-19 health emergency, we must protect the most vulnerable. This bill is a pragmatic approach towards protecting educators from being open to unsafe working conditions. HB 1322 specifically provides these protections to staff that are at least 65 years old, have an underlying medical condition that puts them at increased risk from COVID-19, lives with someone who does, has not received the full course of the vaccine, or chooses not to return to the school building for in-person instruction. The health of the students heavily correlates with the health of our educator, it is important the state takes steps to protect both.

For the reasons stated above, we urge the committee to issue a favorable report on HB 1322.

2021 MSPA HB 1322 Senate Bill.pdf

Uploaded by: Faulkner, Rachael

Position: FAV



Delegate Paul G. Pinsky, Chair
Delegate Cheryl C. Kagan, Vice Chair
Education, Health, and Environmental Affairs Committee
2 West, Miller Senate Office Building
Annapolis, MD 21401

Bill: House Bill 1322 – Primary and Secondary Education-School Personnel-Prohibition on Retaliation for Not Returning to In-Person Instruction and Work

Position: Support

Dear Chairman Kaiser, Vice Chair Washington, and Members of the Committee:

I am writing on behalf of the Maryland School Psychologists' Association (MSPA), a professional organization representing about 500 school psychologists in Maryland. We advocate for the social-emotional, behavioral, and academic wellbeing of students and families across the state.

School psychologists in Maryland provide mental health counseling, crisis prevention and intervention support, behavioral and academic consultation, and evaluations to identify students with disabilities. Like all educators during this unprecedented global pandemic, we have reimagined our profession to meet the needs of students in distance learning. We have learned new digital platforms and tools to meet with students, connected with countless community partners to secure resources for families, and led teams of dedicated colleagues to problem-solve around student disengagement. In some districts, school psychologists have returned to physical buildings prior to the re-opening of the district to meet the federally mandated timelines for assessment, at great personal risk of infection prior to receiving vaccines. We have watched with pride and amazement as our teacher colleagues and other school-based staff have completely reinvented their professions within a very short period of time in order to continue to provide high quality education to Maryland's students.

Understandably, we were dismayed to hear it suggested by Governor Hogan and State Superintendent Salmon that educators may face retaliation from the state should we choose not to return to physical buildings for in-person instruction when such a return may be judged unsafe. Such a statement communicates a failure to recognize the tremendous and unprecedented effort by educators to support students during this difficult time and fails to recognize the inherent dangers of forcing staff to return to in-person instruction without the guarantee that all school staff who wants to will receive a full course of vaccine. Therefore, we are strongly in favor of Vice Chair Washington's emergency measure to protect Maryland

educators from retaliation who choose not to return to buildings for in-person instruction for the health and safety of themselves and their families.

For these reasons, we urge a favorable report on HB 1322. If we can provide any additional information or be of any assistance, please contact us at legislative@mspaonline.org or Rachael Faulkner at rfaulkner@policypartners.net or (410) 693-4000.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kyle Potter". The signature is written in a cursive style and is positioned to the right of a small square icon.

Kyle Potter, Ph.D., NCSP
Chair, Legislative Committee
Maryland School Psychologists' Association

HB 1322 - Prohibition on Retaliation for Not Retur

Uploaded by: Owusu-Acheaw, Pokuaa

Position: FAV

Testimony in Support of House Bill 1322
Primary and Secondary Education - School Personnel - Prohibition on Retaliation for Not
Returning to In-Person Instruction and Work

Senate Education, Health, and Environmental Affairs
March 30, 2021

Pokuua Owusu-Acheaw
Government Relations

The Maryland State Education Association supports House Bill 1322, which prohibits the Governor, the State Superintendent of Schools, the State Board of Education, a county superintendent, or 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. Most importantly, the bill provides Americans with Disabilities Act (ADA) protections, which require 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.

MSEA represents 75,000 educators and school employees who work in Maryland's public schools, teaching and preparing our 896,837 students for careers and jobs of the future. MSEA also represents 39 local affiliates in every county across the state of Maryland, and our parent affiliate is the 3 million-member National Education Association (NEA).

The COVID-19 pandemic has presented numerous challenges in our state. Beyond the tragic loss of life caused by the spread of COVID-19, the pandemic has uprooted our way of life. Education—particularly the way our students learn—has been most consequentially impacted by this pandemic. Since Governor Hogan's initial Declaration of State of Emergency and Existence of Catastrophic Health Emergency on March 5, 2020, our educators have adapted to meeting the needs of our students. For some, that meant virtual or hybrid instruction. For others, that meant being on the frontlines: providing meals to meet the nutritional needs of our students; making sure our school buildings remained clean and sanitized; or providing in-person instruction and support to our most vulnerable students populations. Throughout the entirety of this pandemic, our educators have done exactly what they are trained to do: observe, relate, adapt, and meet their students where they are.



Unfortunately, the Maryland State Department of Education and local school systems have failed to communicate and collaborate with educators on a safe and effective plan to resume in school instruction across the state. This includes a genuine statewide approach to not only prioritize COVID-19 vaccines for educators in school buildings and for those planning to return to classroom instruction, but also a strategic plan on providing sufficient vaccines for educators who want and need them.

House Bill 1322 provides protections for teachers, education support professionals, and other certificated school personnel who are at least 65 years old, have an underlying medical condition that the Centers for Disease Control and Prevention (CDC) has identified as putting the individual at increased risk from COVID-19, or lives in a household with or is the caretaker of an individual who is at least 65 years old or who has an underlying medical condition that the CDC has identified as putting the individual at increased risk from COVID-19; and has not received the full course of a Food and Drug Administration–approved vaccine for COVID-19 and chooses not to return to the school building for in-person instruction. MSEA deems these protections essential to protect educators as many local school systems provide blanket denials to requests for ADA accommodations, leaving our most vulnerable members with no reasonable recourse besides resignation or retirement.

We view HB 1322 as an equitable solution to provide protections for our most vulnerable educators and their families as we all continue to adapt to life in the ongoing global health pandemic caused by COVID-19.

MSEA urges a favorable report of House Bill 1322.

Testimony in Support HB1322 ATW.pdf

Uploaded by: Washington, Alonzo

Position: FAV

ALONZO T. WASHINGTON
Legislative District 22
Prince George's County

—
Vice Chair
Ways and Means Committee

—
Chair, Education Subcommittee



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THE MARYLAND HOUSE OF DELEGATES ANNAPOLIS, MARYLAND 21401

Testimony in Support of HB1322 - Primary and Secondary Education - School Personnel - Prohibition on Retaliation for Not Returning to In-Person Instruction and Work

HB1322 aims to protect our educators and school personnel who are vulnerable to COVID-19. On January 21, 2021, the Governor and the State Superintendent of Schools abruptly and without adequately consulting with stakeholders announced significant revisions to the State Department of Education's Maryland School Reopening Guidance. The Governor referenced retaliatory action in other states against educators and indicated that the Office of the Governor and the State Department of Education would use "every legal avenue" to force a return to in-person instruction regardless of local conditions and the preferences of local communities.

We know many students and educators are struggling with remote learning. We all want students to return to in-person learning when it is safe. But the Governor and the State Department of Education have consistently failed to work with local school systems, schools, administrators, and educators to develop a safe plan to return. To threaten educators with retaliation for their legitimate concerns about the unsafe working conditions within our schools during a pandemic shows a lack of empathy for these essential workers.

To prevent this from happening, I am introducing HB 1322 to protect individuals from any form of retaliation who:

- Are at least 65 years old, have an underlying medical condition that puts them at increased risk from COVID-19, or live with someone who does,
- Has not received the full course of the vaccine, and
- Chooses not to return to the school building for in-person instruction.

This bill ensures these educators and school personnel can choose to stay home until they and their loved ones are vaccinated, without fear of losing their job or state certification. It also requires that county boards of education make accommodations for educators who choose to work remotely to ensure that their lives are not made more difficult because of that decision.

Educators, many of whom you will hear from today, have risen to the challenge during the pandemic. The State is failing or unwilling to provide remote work options to the extent practicable as a reasonable accommodation for educators seeking to protect their safety and that of their families due to an underlying medical issue. When such an uncompromising approach is taken, it only depletes our ability to retain educators at a time when staffing our schools is increasingly difficult.

Educators shouldn't be forced to choose between their job and their health or the health of family members. I ask for a favorable report on HB1322 to help protect vulnerable workers and their family members.

Testimony (1).pdf

Uploaded by: Wilkin, Christine

Position: FAV

My name is Christine Wilkin , I am a teacher at Eleanor Roosevelt High School in Greenbelt, MD. My school was built in 1976 and designed largely without windows. Currently, the HVAC system is our only means of ventilation.

Prince George's County Public School's have purchased MERV-13 filters and conducted air quality tests with the CARES grant they received in January. The staff at my school is very concerned about the results of the air quality test.

We are particularly curious about the air exchange rate. In order for the MERV-13 filter to work properly the air should be exchanged 7 times per hour in a room. Additionally, there should be 20 minutes between class transitions to allow for the filter to exchange the air with the air from the outside.

My school operates on a 8 period schedule with students transitioning freely between classes across the school every forty five minutes.

The staff at Eleanor Roosevelt School have yet to receive reassurance that we have proper ventilation in the building.

Air purifiers were ordered by the county with the second round of stimulus in March but the order is backlogged and we have no idea when we will receive this necessary mitigation measure.

Prince George's county is in the red zone. We are not even supposed to be open. We are open on the basis that the schools are mitigating the risks. But from the ground level, I can tell you, based on my school going over the MSEA health and safety checklist, the current conditions at my school violate CDC mitigation measures.

Only 30% of students are returning to Prince George's County Public Schools, many families also share the sentiment that it is too soon to reopen and have chosen to keep their children home. But teachers did not have that choice. Teachers would lose their teaching certificate and not be able to come back to the school system for three years if we resigned. Every teacher in Prince George's County Public Schools was forced to go back to the classroom. This has created a hostile work environment.

Teachers are terrified of going to work, getting sick, or bringing the disease home to their family. Or worse, they are terrified of bringing the disease to work and getting their whole class sick. By forcing us to open and not taking the time to actually stress school safety the entire community is at risk. I have been to too many preventable funerals this past year to not support house bill 1322.

If we do not pass house bill 1322 soon, more people will die. My fear is that we do not pass house bill 1322 quickly enough and with enough support that Governor Hogan can not refuse to sign.

HB 1322 xover prohib retaliation PSSAM OPP.pdf

Uploaded by: Fannon, Mary Pat

Position: UNF



Mary Pat Fannon, Executive Director
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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.

AACPS HB1322 Retaliation OPP 3.30.21.pdf

Uploaded by: Ortiz, Jeanette

Position: UNF



**HB1322 PRIMARY AND SECONDARY EDUCATION - SCHOOL PERSONNEL - PROHIBITION ON
RETALIATION FOR NOT RETURNING TO IN-PERSON INSTRUCTION AND WORK**

March 30, 2021

EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE

OPPOSE

Jeanette Ortiz, Esq., Legislative & Policy Counsel (410.703.5352)

Anne Arundel County Public Schools (AACPS) opposes **HB1322 Primary and Secondary Education - School Personnel - Prohibition on Retaliation for Not Returning to In-Person Instruction and Work.**

This bill 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 of Education and county boards to allow certain school personnel to instruct and work remotely to the extent practicable during the 2020-2021 school year.

While AACPS appreciates the amendment to clarify that the bill only applies to “a teacher, educational support professional, or other professional school personnel who is allowed to instruct or work remotely” and meets the criteria established in the bill, this legislation is unnecessary. AACPS, along with the other school systems in the State, currently has processes in place for employee work accommodations, approving leaves of absence, and telework opportunities for AACPS employees who qualify based on certain medical criteria or are providing care for a family member meeting certain medical criteria. The AACPS process is aligned with guidelines from the Centers for Disease Control and Prevention as well as State and County governments.

Additionally, AACPS has concerns that this legislation does not consider or address an employee who refuses to be vaccinated. For example, AACPS has conducted several vaccine clinics for school system employees, however, not all school system employees have afforded themselves of this opportunity to receive a COVID-19 vaccine. If this bill were to become law, these same employees would be eligible to work remotely even though they had every opportunity to be vaccinated and simply refused.

In addition, AACPS opposes legislation that reduces or circumscribes local authority and this bill would essentially usurp the authority of a local superintendent to carry out the superintendent’s duties as it relates to employee matters.

Accordingly, AACPS respectfully requests an **UNFAVORABLE** committee report on HB1322.

HB1322 - MCPS- UNFAV.pdf

Uploaded by: Suskind, Danielle

Position: UNF



MONTGOMERY COUNTY BOARD OF EDUCATION

Expanding Opportunity and Unleashing Potential

850 Hungerford Drive ♦ Room 123 ♦ Rockville, Maryland 20850

BILL: HB1322
TITLE: Primary and Secondary Education - School Personnel - Prohibition on Retaliation for Not Returning to In-Person Instruction and Work
DATE: 3/30/2021
POSITION: OPPOSE
COMMITTEE: Ways and Means
CROSSOVER: Education, Health, and Environmental Affairs
CONTACT: Danielle M. Susskind, Coordinator, Legislative Affairs
[Danielle M Susskind @mcpsmd.org](mailto:Danielle_M_Susskind@mcpsmd.org)

The Montgomery County Board of Education (Board) **opposes** HB1322.

The bill greatly expands the requirement to accommodate employees beyond the ADA without specificity. It allows a school-based employee to choose about returning to the school building. Further, it requires "accommodation" by the district but without limitation -- no reference to reasonableness. Finally, from a practical standpoint, it only applies to the 2020-21 school year, which would likely be almost over by the time the legislation was passed by both chambers and signed into law.

For these reasons, the Board **opposes** this legislation and urges a unfavorable report.

HB 1322.Anti Relaiation for Refusal Reurn to Work

Uploaded by: Woolums, John

Position: UNF

BILL: House Bill 1322
TITLE: 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: Education, Health, and Environmental Affairs
CONTACT: John R. Woolums, Esq.

The Maryland Association of Boards of Education (MABE) opposes House Bill 1322 because, contrary to the elaborate provisions of the bill, local boards do not believe that any changes in the laws governing school personnel employment rights or responsibilities are needed or necessitated by the COVID-19 pandemic.

MABE opposes House Bill 1322 because it would impose a new set of conditions and limitations on the ability of school systems to discipline employees who claim that such disciplinary action is being taken in retaliation for their refusal to return to the school building in order to conduct in-person instruction based on one or more of the age, health, household, and vaccination criteria set forth in this bill. Specifically, the bill would prohibit any disciplinary actions with employees based on their not having received a complete vaccination, without any provisions referencing their opportunity to receive a complete vaccination before returning to in-person instruction or referencing the employee's responsibility to provide their rationale for choosing not to receive a vaccination.

Under Md. Code Ann., Ed. Art. § 6-202(a), the local board of education may suspend without pay or terminate a certificated employee only for immorality, misconduct in office, insubordination, willful neglect of duty, or incompetency. To the extent that a school employee refuses to satisfy conditions of employment within the negotiated agreement and in compliance with State and federal laws, regulations, and guidance, they may be subject to discipline under one or more of these just causes.

The dismissal or suspension without pay of a certificated employee under Md. Code Ann., Ed. Art. § 6-202(a) is such that certificated employees have a great deal of due process under the Fourteenth Amendment to the United States Constitution. And the General Assembly very recently expanded employee rights to respond to a superintendent's recommendation for discipline or dismissal. As a result of legislation enacted during the 2018 session of the Maryland General Assembly, Md. Code Ann., Ed. Art. § 6-202(a) was amended to allow certificated employees who have been recommended for termination or suspension without pay to choose whether they wish to follow either the administrative appeal route or a binding arbitration route.

Again, employee rights for Maryland's school employees are already among the most extensive in the nation, and the additional protections contained in this bill would serve to hamper the smooth operation of reopening schools for in-person instruction before the close of the 2020-2021 school year.

For these reasons, MABE requests an unfavorable report on House Bill 1322.