

BILL: House Bill 1254
TITLE: Public School Employees – Whistleblower Protection – Civil Actions
DATE: February 17, 2021
POSITION: OPPOSE
COMMITTEE: Ways and Means
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The Maryland Association of Boards of Education (MABE), representing all of the State's boards of education, opposes House Bill 1254.

This bill would amend the relatively recently enacted Whistleblower Protection Act for Maryland's school employees by repealing the reasonable requirement that an employee should utilize the adopted administrative complaint procedures before instituting civil action in court. This bill would effectively eliminate the employee's responsibility to work through the school system's administrative procedures by setting a 30-day deadline on the school system's final decision. In addition, the bill would also lengthen the time allotted for the employee to sue, from 6 months to 9 months. These provisions, unrealistically shortening the amount of time the employer has to process and respond to the complaint, and lengthening the time the employee has to prepare for litigation, will quite foreseeably lead to more complaints and few of these cases being resolved amicably without costly litigation.

To be clear, MABE supports the rights of employees to take actions to report unlawful behavior. Since 2017, Maryland has had a stand-alone Whistleblower Protection Act for public school employees. In 2017, MABE stressed the fact that public school employees already enjoy a very high standard of due process protections under Maryland law; and that these protections afford many assurances of transparent complaint and dispute resolution processes for employees who believe they have been retaliated against. In addition, school systems already recognize the value of facilitating the reporting of fraud and abuse within the school system through hotlines, ombudsmen, and other resources.

When the Whistleblower Protection Act was passing in 2017, MABE supported the provision that reasonably requires employees to utilize the available administrative procedures before filing a complaint in court. This provision helps ensure a balanced approach to facilitating employee disclosures and prompt school system responses to any alleged unlawful activities.

Again, MABE supports the rights of employees to take action to report unlawful behavior and opposes school system retaliation against employees for doing so. Unfortunately, by removing the requirement to utilize administrative avenues, this bill would foreseeably lead to a much more adversarial process and more litigation. MABE does not believe that this approach is the best course of action for either the employee or school system, and it certainly shouldn't be the only course of action practically provided under the law.

For these reasons, MABE opposes House Bill 1254 and urges an unfavorable report.