



HOUSE ECONOMIC MATTERS COMMITTEE

House Bill 1413

Labor and Employment - Employer Communications During Nonworking Hours - Right to Disconnect

February 27, 2025

Letter of Information

Chair Wilson, Vice Chair Crosby and members of the committee, thank you for the opportunity to offer testimony on House Bill 1413. The bill requires employers to establish a policy that grants employees the right to ignore communications from their employer during nonworking hours and prohibits, except under certain circumstances, an employer from requiring that an employee communicate with the employer during nonworking hours. The University System of Maryland (USM) recognizes that employees working at its constituent institutions are valuable assets whose efforts help the USM deliver on the promises of its mission, and it agrees, in principle, with the intent of this bill. The USM supports its employees in many ways as they work to achieve balance in their work-life responsibilities.

The USM is comprised of twelve distinguished institutions and three regional centers, located from the westernmost part of Maryland to its Eastern Shore and everywhere in between. The flagship institution is situated in the Washington, D.C. suburbs, and the founding institution, with the University of Maryland professional schools, in Baltimore. The USM includes three Historically Black institutions, comprehensive institutions, research universities, and the country's largest public online university. The USM confers eight out of every ten undergraduate degrees in Maryland, which is a particular source of pride for all.

A preeminent public system of higher education, such as the USM, is a key component in fostering economic, intellectual, and cultural growth in the state. Colleges and universities are highly dynamic academic and administrative enterprises that must operate 24 hours a day, 7 days a week. The nature of the USM's workforce is unlike that of any other state agency. It is comprised of several types of employees, including Faculty members who teach, mentor, and support their students, perform research, and provide service to their community and the state. Faculty work is done everywhere and across time zones – on USM campuses and online, within and outside the State of Maryland, and sometimes even outside of the country. It is contrary to the nature of Faculty work to define and enforce working and non-working hours and permissible times to communicate. For example, to prohibit a Faculty member from communicating with their Faculty Research Assistant during “non-working hours” would be to inhibit the student-teacher relationship by imposing artificial limitations on the ability to freely communicate.

Similarly, USM Staff support the 24/7 operations of their institutions, centered around their campuses, to provide student services, research, IT, and other support beyond a standard 8:30 to 5:00 schedule. Some staff, sometimes deemed essential to operations, may be provided with institution-issued

cellphones so they can be reached after hours. The USM's Nonexempt staff do have established working hours, which are communicated in writing, and Nonexempt staff are paid for all after-hours work. The USM has Nonexempt policies and pay premiums for On-call and Callback work, and Nonexempt Staff are paid premium overtime at time-and-a-half their regular rate of pay when their hours exceed 40 in the workweek. To prohibit after-hours communications from the employer could severely impact institution operations and result in the need to hire additional staff to provide after-hours support.

The USM's Exempt Staff are Executives, Administrators, and Managers, as defined by the FLSA, and are ineligible to earn overtime after they work 40 hours in a week, because of the nature of their work. Exempt employees are expected to work whenever needed, and whatever hours are necessary to do their work, on a schedule that satisfies the requirements of the job. The USM's Exempt Staff are not generally required to work a standard work schedule like the USM's Nonexempt Staff, nor do they have an established number of hours they must work in a day. Instead, the USM policy governing the full-time Exempt Staff member's workload requirement is expressed in terms of the biweekly pay period, not workweek. House Bill 1413, requiring the employer to adopt a policy that defines non-working hours, may inadvertently reduce workplace flexibility by creating rigid working hours. This would reduce flexibility to manage operations in an efficient and effective manner. Furthermore, the bill requires that the employer establishes non-working hours "by written agreement" between the employer and employee. This additional requirement imposes unnecessary administrative burden.

While House Bill 1413 is part of a national legislative movement, at a college or university, restricting an institution's flexibility to manage work communication is simply not possible, nor is it practical without significant fiscal impacts to the institutions. Faculty teach at all hours of day and night, residential students require services just the same, and research, involving both humans and animals, rarely fits within the confines of an 8-hour day.

The USM believes strongly that employees should have the right to undisturbed time away from work. However, there must be a balance in the enforcement of this right and the financial burden that comes with non-compliance.

Thank you for allowing the USM to share our position on House Bill 1413.

