

**Informational
House Bill 1168
Local School Systems – Sexual Abuse and Sexual Misconduct – Response
Policy and After–Action Review**

**Ways and Means Committee
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The Maryland State Education Association offers this informational testimony on House Bill 1168, legislation that requires the State Department of Education to develop a model sexual abuse and sexual misconduct response policy that includes, at minimum, certain components; requiring each local school system to adopt a certain response policy, provide certain notices in a certain manner, and conduct a certain after–action review under certain circumstances; and generally relating to sexual abuse and sexual misconduct response policies.

As currently drafted, the legislation compromises the integrity of the investigative process of police and department of social services (DSS) and raises significant due process concerns for school employees. For these reasons, amendments are necessary.

In Maryland, educators are mandated reporters. When an educator suspects abuse or neglect – based solely on suspicion – they are legally required to report that suspicion immediately to police and the Department of Social Services (DSS). Educators are trained to err on the side of the child, and no evidentiary threshold, corroboration requirement, or internal investigation is necessary prior to making such a report. Upon a report being made against a school employee, the employee is placed on administrative leave and merely told that an “allegation” has been made.

DSS evaluates the allegations and determines whether an investigation is warranted. If accepted for investigation, DSS contacts the child and parent or guardian within 24 hours of accepting the report. There already exists a mechanism for immediate reporting to trained professionals and timely parental notification to

the parent and child through DSS. This process preserves investigative integrity as well as ensuring student and employee protections.

Under House Bill 1168, a parent must receive prompt notification from the school system upon receipt of a “credible allegation” that results in the removal of a school employee. The school system, however, does not, and should not, make determinations regarding the credibility of allegations prior to referral to DSS and police. Requiring school systems to notify parents upon the making of a report and before DSS assesses whether the allegations meet the criteria for abuse or neglect risks rumor and speculation within the school community, thereby, compromising DSS’ and the police’s ability to preserve evidence and conduct neutral fact-finding. Furthermore, because the school employee has been placed on administrative leave based solely upon “suspicion”, there is significant reputational harm to the employee without the necessary procedural safeguards. The proposed parental notification by the school system exacerbates the harm and removes an employee’s due process rights.

Finally, Maryland’s mandatory reporting framework functions because educators are trained and encouraged to report suspensions immediately and without attempting to substantiate the claim themselves. If reporting a suspicion triggers school-level parental notification, educators may become reluctant to report ambiguous situations. Such a chilling effect would directly undermine the intent of Maryland’s mandatory reporting law and could ultimately reduce protections for children.