

BILL: Senate Bill 760
TITLE: Education - Grounds for Discipline
POSITION: OPPOSE
DATE: March 8, 2017
COMMITTEE: Education, Health and Environmental Affairs Committee
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The Maryland Association of Boards of Education (MABE), representing all of the state's twenty-four local boards of education, opposes Senate Bill 760.

MABE opposes this bill because it would remove the authority to discipline employees from the local board of education and transfer it to an arbitrator if requested by the employee. Such a transfer would adversely impact the ability of local boards to respond to employee misconduct consistent with the best interests of the students, the school system, and community. Instead, Senate Bill 760 would transfer the board responsibility to an arbitrator, an independent third party who is not required to balance of the employee's interests and the school systems on behalf of all students.

Local boards of education, which approve the hiring of all certificated employees, should retain the authority to terminate or suspend their employment for one of the five reasons stated in the law (immorality, misconduct, incompetency, willful neglect of duty, insubordination). Outside arbitrators, who by definition have no connection to the school system, should not be empowered to determine who should remain employed by the school system. Local boards represent the interests of the entire community – students, teachers, parents, businesses, government leaders – and must be able to decide when any specific individual's actions should disqualify that person from teaching the students in that community, either temporarily or permanently.

The board of education is first and foremost a board, meaning it is made up of five or more individuals who can hear termination and suspension cases and who can debate and deliberate on those cases. Senate Bill 760 would place these decisions in the hands of a single individual without any option to for the local board to consider and deliberate on the appropriate response to the employee actions at issue.

Employee discipline cases may involve incompetency, misconduct, and immorality. These are matters of the utmost concern to local boards of education. Each local board is the holder of the public trust to do what is best for school children. MABE firmly believes that the public should continue to be able to trust in the governance responsibility of their local board of education to adjudicate appeals regarding employee conduct.

A determination of incompetency is based in part on the expertise of the school system administrators and in part on the local board of education which sets the standards for its educators. Such cases should not be entrusted to an individual arbitrator who may have no knowledge or familiarity with the teaching and learning standards in a given school system.

A determination of misconduct is based on whether the local board as the employer believes the act is sufficiently egregious as to affect the individual's ability to effectively teach in that local school system. That question cannot be answered without knowing the schools, the students, and the specific expectations of the community, and again is not based on a simply statewide list of behaviors that call for a specific punishment. The local board is clearly in a better position than an arbitrator who might not even have any connection to Maryland, much less the specific school system and locality.

A determination of immoral behavior is based on community standards, i.e., what actions violate the standards of decency expected of our teachers by our students, parents, and other community members. The General Assembly included the term "immorality" and did not reduce that to a specific list of behaviors; this is because the law recognizes that local boards are to make these determinations, not outside decision-makers.

Currently, when a teacher dismissal case is heard before the local board of education, the decision may be appealed to the Maryland State Department of Education (MSDE) which refers the case to the Office of Administrative hearings (OAH) for a hearing. The case can thereafter be appealed to the Circuit Court for judicial review. Under the proposed bill, if an appellant employee requests arbitration, the appeal would go directly to the Circuit Court. If enacted, Senate Bill 760 would eliminate the OAH and State Board of Education roles and responsibilities of fact finding and appellate review.

Again, MABE firmly believes that the employee discipline process envisioned by this bill would inappropriately strengthen the employee's interests and weaken the ability of a local school superintendent, local board, and state board of education to decide, review, and enforce employee discipline cases.

For these reasons, MABE urges an unfavorable report on Senate Bill 760.