

BILL: House Bill 1259
TITLE: Education - Collective Bargaining for Noncertificated Employees -
Supervisory Employees and Management Personnel
DATE: March 26, 2019
POSITION: OPPOSE
COMMITTEE: Finance Committee
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The Maryland Association of Boards of Education (MABE), representing all of the state's local boards of education, opposes House Bill 1259.

MABE opposes this bill because it would remove the determination of the definition of "supervisory employee" from the local board of education, even in the context of negotiations. Current law clearly provides:

"Supervisory employee" includes any individual who responsibly directs the work of other employees, as determined by the public school employer in negotiation with an employee organization that requests negotiation on this issue.

In a recent decision issued by the Public School Labor Relations Board (PSLRB), a local school system's determination under this section of law was upheld, over the objection of the teachers union. The Harford County school system proposed, and was unable to resolve through negotiations, that school nurses would be reassigned to the Association of Harford County Administrative, Technical, and Supervisory Professionals ("AHCATSP"). The local school system decision was premised on the restructuring of nursing positions so that they would directly supervise and evaluate the team nurses and the part-time nurses. Additionally, the new school nurse positions would be responsible for supervising and assisting in the evaluation of the inclusion of helpers and para educators who are delegated/trained to assist in the care of students with medical needs.

Importantly, the case was resolved in favor of the school system. "In the opinion of the PSLRB, if a public school employer's determination of supervisory status is wholly arbitrary and not grounded in any plausible interpretation of the relevant facts, the PSLRB would have the authority to overturn that determination. We do not believe that this case falls into this category."

MABE would also note that in its decision in favor of the local school system's classification of school nurses as supervisory employees, the PSLRB found no evidence of bad faith bargaining.

The plain language of this Section expressly provides that it is the public school employer who has the right to determine whether or not an employee "responsibly directs the work of other employees," and is therefore, a "supervisory employee"; however, it may only do so after it has negotiated with the employee organization where so requested. Implicit in this prerequisite is the obligation of the public school employer to negotiate in good faith with the employee organization. In this case, the HCESC has not alleged that the County Board failed to negotiate in good faith with the HCESC over the supervisory status of the school nurses, nor does the evidence support this conclusion.

House Bill 1259 is not needed because it would amend a section of law that was able to be interpreted and applied by the PSLRB to a local school system decision negotiated in good faith. For these reasons, MABE requests that the committee issue an unfavorable report on House Bill 1259.