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BILL: House Bill 468
TITLE: Public School Employees – Whistleblower Protection – Civil Actions
DATE: March 29, 2022
POSITION: OPPOSE
COMMITTEE: Education, Health, and Environmental Affairs
CONTACT: John R. Woolums, Esq.

The Maryland Association of Boards of Education (MABE) opposes House Bill 468.

This bill would amend the Whistleblower Protection Act for Maryland’s school employees by repealing what local school systems believe to be a very reasonable requirement that an employee must utilize the adopted administrative complaint procedures before instituting civil action in court.

MABE opposes this bill because it would effectively eliminate the employee’s responsibility to work through the school system’s administrative procedures. The bill would set a 30-day deadline on the school system’s final decision and 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 foreseeably lead to more complaints and fewer of these cases being resolved 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. If this legislation were to become law, MABE believes that restoring the requirement to exhaust administrative remedies would align with the bill’s other provisions.

For these reasons, MABE opposes House Bill 468 and requests an unfavorable report.