

# HOUSE BILL 1322

F1

EMERGENCY BILL  
**ENROLLED BILL**

(11r2973)

— *Ways and Means/Education, Health, and Environmental Affairs* —

Introduced by **Delegate Washington**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Primary and Secondary Education – School Personnel – ~~Prohibition on~~**

3 **~~Retaliation for~~ Not Returning to In-Person Instruction and Work –**

4 **Accommodations and Discipline**

5 FOR the purpose of ~~prohibiting the Governor, the State Superintendent of Schools, the~~  
6 ~~State Board of Education, a county superintendent, and a county board of education,~~  
7 ~~during a certain school year, from disciplining, suspending, terminating, or~~  
8 ~~otherwise retaliating against certain school personnel under certain circumstances;~~  
9 ~~prohibiting the Governor, the State Superintendent, and the State Board, during a~~  
10 ~~certain school year, from revoking a certain certification under certain~~  
11 ~~circumstances;~~ requiring the State Board *of Education* and county boards *of*  
12 *education* to allow certain school personnel to instruct and work in a certain manner  
13 under certain circumstances *during a certain school year*; requiring a county board  
14 to make certain accommodations for certain school personnel under certain  
15 circumstances *during a certain school year; requiring a county board to send a*

---

### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber/conference committee amendments.*



response to a certain individual who submits a certain application for an accommodation within a certain period of time; prohibiting the Governor, the State Superintendent of Schools, the State Board of Education, a county superintendent of schools, and a county board of education, during a certain school year, from taking certain actions against certain school personnel under certain circumstances; providing for the construction of this Act; making this Act an emergency measure; and generally relating to the prohibition on retaliation accommodations for and discipline against school personnel for not returning to a school building for in-person instruction and work.

#### Preamble

~~WHEREAS, The COVID-19 pandemic has had a profound impact on education and the operation of Maryland schools; and~~

~~WHEREAS, Educational and governmental leaders have a responsibility to work cooperatively with educators, parents, students, county boards of education, and community members in developing plans to safely return students to schools; and~~

~~WHEREAS, On January 21, 2021, the Governor and the State Superintendent of Schools abruptly and without adequately consulting with stakeholders announced significant revisions to the State Department of Education's Maryland School Reopening Guidance; and~~

~~WHEREAS, The Governor referenced retaliatory action in other states against educators and indicated that the Office of the Governor and the State Department of Education would use "every legal avenue" to force a return to in-person instruction regardless of local conditions and the preferences of local communities; and~~

~~WHEREAS, The State Department of Education has consistently failed to work collaboratively with stakeholders in school communities to develop plans for the safe reopening of schools, and for much of the course of the COVID-19 pandemic, has refused to meet with the democratically elected leadership of the teaching profession; and~~

~~WHEREAS, Educators and other school personnel, particularly those with a high risk of serious complications from COVID-19, should have the opportunity to be fully vaccinated before returning to in-person instruction and work; now, therefore,~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
That, notwithstanding any other provision of law:

(a) ~~During the 2020-2021 school year, the Governor, the State Superintendent of Schools, the State Board of Education, a county superintendent, and a county board of education may not discipline, suspend, terminate, or otherwise retaliate against a teacher, an educational support professional, or any other professional school personnel if the individual:~~

1           ~~(1) (i) is at least 65 years old;~~

2                           ~~(ii) has an underlying medical condition that the Centers for Disease~~  
3 ~~Control and Prevention has identified as putting the individual at increased risk from~~  
4 ~~COVID-19; or~~

5                           ~~(iii) lives in a household with or is the caretaker of an individual who~~  
6 ~~is at least 65 years old or who has an underlying medical condition that the Centers for~~  
7 ~~Disease Control and Prevention has identified as putting the individual at increased risk~~  
8 ~~from COVID-19; or~~

9                           ~~(iv) is a teacher, educational support professional, or other~~  
10 ~~professional school personnel who is allowed to instruct or work remotely under subsection~~  
11 ~~(c) of this section;~~

12           ~~(2) has not received the full course of an FDA-approved vaccine for~~  
13 ~~COVID-19; and~~

14           ~~(3) chooses not to return to the school building for in-person instruction.~~

15           ~~(b) The Governor, the State Superintendent of Schools, and the State Board of~~  
16 ~~Education may not suspend or revoke State certification of a teacher or other professional~~  
17 ~~personnel as a consequence of the individual's choosing to not return to the school building~~  
18 ~~for in-person instruction during the 2020-2021 school year.~~

19           ~~(c) (a) (1) Consistent~~ *During the 2020-2021 school year, consistent* with  
20 applicable laws, *Centers for Disease Control and Prevention guidelines*, and labor  
21 agreements, during a state of emergency related to the COVID-19 pandemic, the State  
22 Board of Education and county boards of education shall, *to the extent practicable*, allow  
23 teachers, educational support professionals, and other professional school personnel ~~who~~  
24 ~~have not received the full course of an FDA-approved~~ *to instruct or work remotely if:*

25                           ~~(i) the individual has not received a federally authorized~~ vaccine for  
26 ~~COVID-19 to instruct or work remotely to the extent practicable; or~~

27                           ~~(ii) 2 weeks have not passed following the second dose in a two-dose~~  
28 ~~series of a federally authorized vaccine for COVID-19 or the administration of a single dose~~  
29 ~~of a federally authorized vaccine for COVID-19, in accordance with Centers for Disease~~  
30 ~~Control and Prevention guidelines regarding full vaccination.~~

31           (2) If a teacher, an educational support professional, or any other  
32 professional school personnel chooses to instruct or work remotely in accordance with this  
33 subsection, the county board of education shall make accommodations for the teacher,  
34 educational support professional, or other professional school personnel to facilitate the  
35 choice.

1 (b) During the 2020–2021 school year, a teacher, an educational support  
2 professional, or any other professional school personnel may submit to the county board of  
3 education an application for an accommodation to instruct or work remotely if the  
4 individual:

5 (1) (i) is at least 65 years old;

6 (ii) has documentation of an underlying medical condition that the  
7 Centers for Disease Control and Prevention or the individual's physician has identified as  
8 putting the individual at increased risk from COVID–19;

9 (iii) lives in a household with or is the caretaker of an individual who  
10 is at least 65 years old or who has documentation of an underlying medical condition that  
11 the Centers for Disease Control and Prevention or the individual's physician has identified  
12 as putting the individual at increased risk from COVID–19; or

13 (iv) is a teacher, educational support professional, or other  
14 professional school personnel who has been temporarily assigned to instruct or work  
15 remotely;

16 (2) has not received a federally authorized vaccine for COVID–19 due to  
17 having an underlying medical condition that the Centers for Disease Control and Prevention  
18 or the individual's physician has identified as putting the individual at increased risk from  
19 complications from the vaccine; and

20 (3) chooses not to return to the school building for in–person instruction.

21 (c) Within 5 days of the date of receipt of an application for an accommodation to  
22 instruct or work remotely submitted by an individual in accordance with subsection (b) of  
23 this section, the county board of education shall send a response to the individual who  
24 submitted the application.

25 (d) The Governor, the State Superintendent of Schools, the State Board of  
26 Education, a county superintendent of schools, or a county board of education may not take  
27 any of the following actions against a teacher, an education support professional, or other  
28 professional school personnel as a consequence of the individual's choosing to not return to  
29 the school building for in–person instruction during the 2020–2021 school year:

30 (1) suspend or revoke State certification of a teacher or other professional  
31 personnel; or

32 (2) discipline, suspend, terminate, or otherwise retaliate against the  
33 individual.

34 (e) Nothing in this Act may be construed to supersede collective bargaining laws  
35 or agreements.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency  
2 measure, is necessary for the immediate preservation of the public health or safety, has  
3 been passed by a yea and nay vote supported by three-fifths of all the members elected to  
4 each of the two Houses of the General Assembly, and shall take effect from the date it is  
5 enacted.

Approved:

---

Governor.

---

Speaker of the House of Delegates.

---

President of the Senate.