



BILL: House Bill 497
TITLE: Education – Grounds for Discipline
DATE: February 14, 2017
POSITION: OPPOSE
COMMITTEE: Ways and Means
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House Bill 497 alters specified procedures for suspending or dismissing specified public school personnel; authorizing specified public school personnel to request arbitration under specified circumstances; specifying the procedures for arbitration; assigning responsibility for specified costs to the county board; and providing that an arbitrator's award is final and binding on the parties, subject to review by a circuit court.

PSSAM **strongly opposes** House Bill 497. This bill would erode the statutory authority of boards of education and circumvent boards in the disciplinary process for certificated employees. In specified situations, this legislation would transfer the responsibility of interpreting education policy and employee discipline from boards of education to an arbitrator, and ignore nearly fifty years of interpretation and application of education law that has established precedent and expectations for all stakeholders. Arbitrators do not have to follow the “deference to educational judgment” standard that applies to administrative decisions that are made by school superintendents and boards of education. Arbitrators generally do not have the breadth of knowledge of education law and may not hold the protection of students to the same high standard that boards of education require.

Maryland case law on teacher discipline has historically developed clear and consistent standards that would be affected by this proposed legislation. It would dismantle that standard which is grounded in decisions that are based on acceptable standards that consider all stakeholders in a school system. Teacher discipline would be made on an arbitrary basis weighing only the interests of the employee.

The local board of education, which hires certificated employees, must 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, would be determining who should remain employed by the school system. The arbitrator might not even be from Maryland, meaning that a person from another state might be making the final determination concerning who should be teaching in Maryland’s schools.

The local board of education represents students, teachers, parents, and the community at large. They must have the authority to determine when any specific individual’s actions should disqualify that person from teaching students in their school system. The local board of education consists of five or more individuals who can hear termination and suspension cases and deliberate on those cases. House Bill 497 would place the decision in the hands of a single individual without any option to talk through the facts and issues involved.

Finally, PSSAM **OPPOSES** House Bill 497 as an unfunded mandate. There would be considerable costs associated with certificated employees who select arbitration instead of a hearing before the board of education. Arbitration can be a long process with huge dollars attached to billable hours. In addition, certificated employees are often granted leave with pay while awaiting a decision, adding additional costs for the salaries of substitutes.