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§6–408.

(a) When a public school employer and an employee organization negotiate under this section, the public school employer and the employee organization shall:

(1) Confer in good faith, at all reasonable times;

(2) Honor and administer existing agreements;

(3) Make every reasonable effort to conclude negotiations with a final written agreement in a timely manner; and

(4) Reduce to writing the matters agreed on as a result of the negotiations.

(b) The agreements may provide for binding arbitration of the grievances arising under the agreement that the parties have agreed to be subject to arbitration.

(c) (1) On request a public school employer or at least two of its designated representatives shall meet and negotiate with at least two representatives of the employee organization that is designated as the exclusive negotiating agent for the public school employees in a unit of the county on all matters that relate to salaries, wages, hours, and other working conditions, including procedures regarding employee transfers and assignments.

(2) Except as provided in paragraph (3) of this subsection, a public school employer or at least two of its designated representatives may negotiate with at least two representatives of the employee organization that is designated as the exclusive negotiating agent for the public school employees in a unit of the county on other matters that are mutually agreed to by the employer and the employee organization.

(3) A public school employer may not negotiate the school calendar, the maximum number of students assigned to a class, or any matter that is precluded by applicable statutory law.

(4) A matter that is not subject to negotiation under paragraph (2) of this subsection because it has not been mutually agreed to by the employer and the employee organization may not be raised in any action taken to resolve an impasse under subsection (e) of this section.

(5) (i) If a public school employer and an employee organization dispute whether a proposed topic for negotiation is a mandatory, a permissive, or an illegal topic of bargaining, either party may submit a request for a decision in writing to the Board for final resolution of the dispute.

(ii) A request for a decision shall:

1. Clearly identify each topic of bargaining for which the party is requesting a decision; and

2. Be made before the Board determines that an impasse has been reached.

(iii) If the Board receives a request for a decision, within 7 days after receipt of the request, the Board shall issue a letter to the public school employer and the employee organization that requests written briefs in support of their respective positions.

(iv) Within 7 days after receipt of a request from the Board for written briefs, the public school employer and the employee organization shall deliver to the Board a written brief on the issue of whether the topic is mandatory, permissive, or illegal in nature.

(v) After receipt of written briefs from the public school employer and the employee organization, the Board shall:

1. Consider the merits of each party's arguments;

2. Render a decision determining whether the topic of negotiation is mandatory, permissive, or illegal; and

3. Issue the written decision to the parties within 14 days after receiving the written briefs.

(vi) 1. The Board may adopt regulations, guidelines, and policies to carry out its rights and responsibilities under this section.

2. To resolve disputes under this section, the Board shall develop a balancing test to determine whether the impact of the matter on the school system as a whole outweighs the direct impact on the teachers or employees.

(6) In Montgomery County, the exclusive negotiating agent for the public school employees in a unit and the public school employer shall meet and negotiate under this section the salaries, wages, hours, and other working conditions of all persons actually employed as substitute teachers or home and hospital teachers.

(d) The designation of representatives by the employer under this section does not prevent the designated employee organization from appearing before or making proposals to the public school employer at a public meeting or hearing.

(e) (1) If, on the request of either party, the Board determines from the facts that an impasse is reached in negotiations between a public school employer and an employee organization that is designated as an exclusive negotiating agent, the Board shall within 10 calendar days:

(i) Request last and best offers from the public school employer and the employee organization, which may not include items or topics not previously raised in the bargaining process; and

(ii) Order the public school employer and the employee organization to commence mediation within 14 days after the Board's determination that an impasse has been reached.

(2) The last and best offers shall list separately every term or condition of employment in dispute and the demand of the party making the last and best offer.

(3) Within 5 calendar days after an order to mediate, the parties shall select a mediator by:

(i) Agreement; or

(ii) Alternate striking from a list of seven neutral parties furnished by:

1. The Federal Mediation and Conciliation Service; or

2. The American Arbitration Association.

(4) The mediator shall conclude the mediation within 25 days after convening the first mediation session.

(5) If the public school employer and the employee organization do not reach agreement before concluding the mediation, the mediator shall issue a written offer to both parties and the Board of settlement of all matters raised.

(6) Within 5 days after receiving the proposed settlement, the public school employer and the employee organization each shall notify the mediator of its intent to:

(i) Accept the written proposed settlement;

(ii) Accept the written proposed settlement in part, as mutually agreed on by the public school employer and the employee organization; or

(iii) Decline the proposed settlement and request arbitration before the Board.

(7) The public school employer and the employee organization shall share the costs of the mediator equally.

(8) If either party declines the proposed settlement and requests arbitration, the Board shall, within 5 calendar days, set a date for an arbitration hearing before the Board.

(9) The Board shall:

(i) Open the arbitration record within 20 days after receiving either party's decision to decline the mediator's proposal;

(ii) Convene a hearing;

(iii) Hear testimony from and receive supporting written evidence, as provided in an order of the Board, from the public school employer, the employee organization, and the mediator;

(iv) Administer oaths to witnesses deemed relevant and called by the Board;

(v) Issue subpoenas to compel the production of relevant and nonprivileged documents and other tangible evidence that would also be subject to production before a hearing or at a hearing under Title 4 of the General Provisions Article; and

(vi) Receive, hear, and consider all evidence considered relevant by the Board, whether or not offered through an attorney, including:

1. The wages, hours, working conditions, or other terms and conditions of employment of similar public employees in comparable surrounding jurisdictions and comparable jurisdictions outside the State; and

2. The ability of the public school employer and the county served by the public school employer to pay, considering their existing resources, the costs of the final offers proposed and other personnel costs.

(10) The Board shall conclude the hearing by issuing a written order within 20 days after the arbitration record is opened.

(11) The Board shall issue the written award that selects and adopts:

(i) The complete final offer of the public school employer;

(ii) The complete final offer of the employee organization; or

(iii) The mediator's complete offer of settlement.

(12) The Board's written award is final and binding on the public school employer and the employee organization.

(13) The public school employer and the employee organization shall share the costs of the hearing equally.

(14) Any negotiated provision or decision of the Board is subject to the other provisions of this article concerning the fiscal relationship between the public school employer and the county commissioners, county council, and Mayor and City Council

of Baltimore City.

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