

Article - Education

§16-414.1.

(a) (1) In this section the following words have the meanings indicated.

(2) “Agreement” means a written contract between the public employer and an employee organization.

(3) “Arbitration” means a procedure whereby parties involved in a grievance dispute submit their differences to an impartial third party for a final and binding decision.

(4) (i) “Collective bargaining” means:

1. The performance by a certified employee organization, through its designated representative, and the public employer of their mutual obligations to meet at reasonable times and negotiate in good faith with respect to wages, hours, and other terms and conditions of employment; or

2. A. The negotiation of a collective bargaining agreement or any questions arising under a collective bargaining agreement; and

B. The execution of various agreements incorporating the terms agreed to by both parties.

(ii) In collective bargaining, a party may not be compelled to agree to a proposal or be required to make a concession to the other party.

(5) “Commissioner” means the State Commissioner of Labor and Industry or the Commissioner’s designee.

(6) “Confidential employee” means a public employee whose unrestricted access to personnel, budgetary, or fiscal data subject to use by the public employer in collective bargaining, or whose close, continuing working relationship with those responsible for negotiating on behalf of the public employer, would make the employee’s membership in an employee organization as a rank and file employee incompatible with the employee’s duties.

(7) “Employee organization” means an organization of public employees which has as one of its primary purposes representing those employees in collective bargaining.

(8) “Exclusive representative” means an employee organization which has been certified by the Commissioner as representing the employees of a bargaining unit.

(9) “Fact-finding” means a process which includes:

(i) The identification of the major issues in a particular impasse;

- (ii) The review of the positions of the parties;
- (iii) A resolution of factual differences by an impartial individual or panel; and
- (iv) The making of recommendations for settlement of the impasse.

(10) “Grievance” means a dispute concerning the application or interpretation of the terms of a collective bargaining agreement.

(11) “Impasse” means a failure by the public employer and an exclusive representative to achieve agreement in the course of collective bargaining.

(12) “Mediation” means assistance by an impartial third party to reconcile a dispute arising out of collective bargaining through interpretation, suggestion, and advice.

(13) “Public employee” means an employee employed by the public employer, except:

- (i) Employees involved directly in the determination of policy;
- (ii) Supervisory or confidential employees;
- (iii) Student assistants; and
- (iv) Faculty.

(14) “Public employer” means the Board of Community College Trustees for Prince George’s County.

(15) “Strike” means a public employee’s refusal, in concerted action with others, to report for duty, or willful absence from the position, or stoppage of work, or abstinence in whole or in part from the proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in the wages, hours, or other terms and conditions of employment.

(16) “Supervisory employee” means a public employee who has the authority to act on behalf of the public employer to:

- (i) Hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees;
- (ii) Direct employees responsibly;
- (iii) Adjust employee grievances; or
- (iv) Recommend effectively one of the actions set forth in items (i) through (iii) of this paragraph, if the exercise of this authority:

1. Is not merely of a routine or clerical nature; and
2. Requires the exercise of independent judgment.

(b) The public employer shall determine whether a public employee is to be considered a public employee for collective bargaining purposes. Either party or an employee organization may appeal the determination to the Commissioner for a final and binding decision.

(c) (1) After receiving a petition for an election for exclusive representative, the Commissioner shall:

(i) Investigate the petition for purposes of verification and validation;

(ii) Conduct a public hearing, receiving written and oral testimony; and

(iii) File an order defining the most appropriate bargaining unit.

(2) (i) 1. The Commissioner may not designate more than one bargaining unit.

2. The bargaining unit shall consist of all eligible classified employees of Prince George's Community College, including all skilled professional service and skilled and nonskilled service employees.

3. The bargaining unit shall not include faculty.

(ii) In defining a bargaining unit, the Commissioner shall consider, in addition to other relevant factors:

1. The efficiency of operations of the public employer;

2. The effect of over-fragmentation of bargaining units on the efficient administration of the public employer;

3. The community of interest of public employees; and

4. The administrative structure of the public employer.

(d) (1) After October 1, 2001, an election or recognition of an exclusive representative shall be conducted by the Commissioner for each unit after the requirements of subsections (b) and (c) of this section have been met by that unit.

(2) A petition for an election may be submitted by:

(i) An employee organization that demonstrates that 30 percent of the employees in a bargaining unit wish to be represented for collective bargaining by

an exclusive representative;

(ii) A public employee, a group of public employees, or an employee organization that demonstrates that 30 percent of the employees assert the designated exclusive representative is no longer the representative of the majority of employees in the unit; or

(iii) If the Commissioner finds, on investigation of the public employer's petition, that a valid question of representation exists, a public employer that demonstrates that one or more employee organizations has presented to it a claim, supported by substantial proof, to be certified as the exclusive representative.

(3) There shall be on the ballot:

(i) The name or names of the employee organization submitting the valid petition;

(ii) The name of any other employee organization designated in a valid petition signed by more than 10 percent of the employees in the appropriate bargaining unit; and

(iii) A provision for "no representation".

(4) (i) In any election where none of the choices on the ballot receives a majority of the votes cast, a runoff election shall be conducted, with the ballot providing for a selection between the two choices receiving the highest number of ballots cast in the election.

(ii) An employee organization receiving a majority of votes cast in an election shall be certified by the Commissioner as the exclusive representative for collective bargaining purposes.

(iii) An employee organization may be certified as an exclusive representative only as provided under this section.

(5) The election of an exclusive representative shall be conducted by:

(i) Secret ballot; and

(ii) The Commissioner or the Commissioner's designee.

(6) The election of an exclusive representative may not be conducted in any unit in which a valid election has been held within the preceding 2 years.

(e) (1) The public employer shall extend to an employee organization certified as exclusive representative the right to represent the public employees of the unit involved in collective bargaining and in the settlement of grievances.

(2) An employee organization certified as the exclusive representative for a bargaining unit shall:

(i) Serve as the bargaining agent for all public employees in the bargaining unit; and

(ii) Represent fairly and without discrimination each public employee in the unit without regard to whether the employee is a member of the employee organization.

(3) On behalf of the exclusive representative for payment to the exclusive representative, the public employer shall automatically deduct from the paycheck of each public employee in a bargaining unit represented by an employee organization certified as an exclusive representative for that bargaining unit:

(i) Any union dues authorized and owed by the employee to the organization; and

(ii) Any service fees authorized and owed by the employee to the organization.

(4) (i) Every employee organization which has or seeks certification as an exclusive representative shall file, with the public employer and the Commissioner, a copy of the employee organization's constitution and bylaws.

(ii) Each change and amendment to the constitution and bylaws shall be promptly reported.

(5) (i) Each employee organization shall file with the public employer and the Commissioner an annual report.

(ii) The annual report shall include a financial report, signed by the organization's president and treasurer or corresponding principal officers, that contains information in the detail necessary to accurately disclose the financial condition and operations of the organization.

(6) The constitution or bylaws of an employee organization shall require that the employee organization:

(i) Pledge that the organization will accept members without regard to age, race, sex, religion, marital status, disability, or national origin;

(ii) Keep accurate accounts of all income and expenses and prepare an annual financial report;

(iii) Keep organization accounts open for inspection by any member of the organization;

(iv) Make any loans to officers and agents of the organization only on the same terms and conditions that loans are made available to all other members;

(v) Ensure that periodic elections are by secret ballot and subject to recognized safeguards concerning the equal right of all members to nominate, seek office, and vote;

(vi) Ensure that individual members have the right to participate in the affairs of the organization; and

(vii) Develop and maintain procedures for disciplinary actions that are fair and equitable.

(7) The Commissioner may not certify an employee organization for the purpose of negotiating with the public employer if:

(i) The organization has not filed an annual report; or

(ii) The organization's constitution and bylaws do not conform to the requirements of paragraph (6) of this subsection.

(f) Collective bargaining shall include all matters relating to:

(1) Wages, hours, and other terms and conditions of employment; and

(2) The procedures for the employee organization to receive membership dues and service fees through payroll deduction.

(g) In the course of collective bargaining, the public employer and the exclusive representative shall make every reasonable effort to conclude negotiations prior to the budget submission date of the public employer, in order that the governing body of Prince George's County may act on the operating budget of the public employer.

(h) (1) If in the course of collective bargaining a party deems that an impasse exists, that party may request the services of the Commissioner in mediation or engage another mutually agreed upon mediator.

(2) (i) By mutual agreement, the parties may engage in fact-finding.

(ii) 1. If there is not mutual agreement, either party, after a reasonable period of mediation, may petition the Commissioner to initiate fact-finding.

2. A. After considering the status of bargaining and the budget schedule of the public employer, the Commissioner may find that an impasse exists and may notify the parties that fact-finding is to be initiated.

B. The public employer and the exclusive representative may select their own fact finder.

C. If the parties have not selected their own fact finder within 5 days of the required notification, the Commissioner shall submit to the parties the names of five qualified persons. Each party alternately shall strike two names from the list. The order of striking shall be determined by lot. The remaining individual shall be the fact finder.

D. The fact finder selected by the parties shall conduct hearings and may administer oaths.

E. The fact finder shall make written findings of fact and recommendations for resolution of the impasse.

F. Not later than 30 days after the date of appointment, the fact finder shall transmit the findings to the public employer and the exclusive representative.

G. If the impasse continues 10 days after the report is submitted to the parties, the report shall be made available to the public.

(iii) The parties shall bear equally the costs of fact-finding.

(i) (1) A public employee may not engage in a strike.

(2) A public employee may not receive pay or compensation from the public employer for any period during which the public employee is engaged in a strike.

(3) If a strike of public employees occurs in Prince George's County, a court of competent jurisdiction may enjoin the strike at the request of the public employer.

(4) If an employee organization certified as an exclusive representative engages in a strike, the Commissioner shall revoke the organization's certification as exclusive representative.

(5) An employee organization which engages in a strike and has its certification revoked shall be ineligible to be certified as an exclusive representative for a period of 1 year following the end of the strike.

(j) (1) The public employer and the exclusive representative shall execute a written agreement by incorporating any matters of agreement reached on wages, hours, and other terms and conditions of employment.

(2) A collective bargaining agreement may include a provision for the arbitration of grievances arising under an agreement.

(3) (i) A collective bargaining agreement may not include matters relating to the employees' or teachers' retirement systems otherwise covered by the Annotated Code of Maryland.

(ii) Subparagraph (i) of this paragraph does not prohibit a discussion of the terms of the retirement systems in the course of collective bargaining.

(4) The terms of a collective bargaining agreement shall supersede any conflicting regulations or administrative policies of the public employer.

(5) A request for funds necessary to implement a collective bargaining agreement shall be submitted by the public employer in a timely fashion for consideration in the budget process of the county.

(6) Not later than 20 days after final budget action by the governing body of Prince George's County, if a request for funds necessary to implement a collective bargaining agreement is reduced, modified, or rejected by the governing body, either party to the agreement may reopen the agreement.

(k) The public employer has the right to:

(1) Determine how the statutory mandate and goals of the college, including the functions and programs of the college, its overall budget, and its organizational structure, are to be carried out; and

(2) Direct college personnel.

(l) (1) Public employees have the right to:

(i) Organize;

(ii) Form, join, or assist any employee organization;

(iii) Bargain collectively through representatives they have chosen;

(iv) Engage in other lawful concerted activity for the purpose of collective bargaining; or

(v) Refrain from engaging in the activities listed under this paragraph.

(2) (i) A public employee or group of public employees has the right, at any time, to:

1. Present a grievance arising under the terms of the agreement to the public employer; and

2. Have the grievance adjusted without the intervention of the exclusive representative.

(ii) The exclusive representative has the right to be present during any meeting involving the presentation or adjustment of a grievance.

(iii) The public employer has the duty to hear a grievance and participate in the adjustment of the grievance.

(iv) The adjustment of a grievance may not be inconsistent with the terms of the collective bargaining agreement then in effect.

(v) The public employer shall give prompt notice of any adjustment of a grievance to the exclusive representative.

(3) The public employer and a public employee organization may not interfere with, intimidate, restrain, coerce, or discriminate against a public employee because the employee exercises rights granted under this subsection.

(m) If a public general law on collective bargaining generally applicable to community colleges becomes effective, the authority granted under this section, any procedures adopted under this section, and any decision, action, or agreement made under this section shall expire and become void.

(n) Except as provided in this section, this section may not be interpreted to render the provisions of Title 4, Subtitles 1 through 3 of the Labor and Employment Article applicable to employment at Prince George's Community College.