

# SENATE BILL 639

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CF HB 1758

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By: **Senators Guzzone, Benson, Feldman, Kagan, Kasemeyer, King, Madaleno, Manno, Middleton, Nathan-Pulliam, Pinsky, Ramirez, Robinson, Smith, Young, and Zucker**

Introduced and read first time: February 1, 2018

Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable

Senate action: Adopted

Read second time: March 15, 2018

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

1 AN ACT concerning

2 **Education – Public School Personnel – Disciplinary Hearing Procedures**

3 FOR the purpose of altering certain procedures for suspending or dismissing certain public  
4 school personnel; authorizing certain public school personnel to request arbitration  
5 under certain circumstances; specifying the procedures for arbitration; assigning  
6 responsibility for certain costs; providing that an arbitrator's decision and award is  
7 final and binding on the parties, subject to review by a circuit court; making stylistic  
8 changes; and generally relating to procedures for suspending or dismissing certain  
9 public school personnel.

10 BY repealing and reenacting, with amendments,

11 Article – Education

12 Section 6–202

13 Annotated Code of Maryland

14 (2014 Replacement Volume and 2017 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

16 That the Laws of Maryland read as follows:

17 **Article – Education**

18 6–202.

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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.



1 (a) (1) On the recommendation of the county superintendent, a county board  
2 may suspend or dismiss a teacher, principal, supervisor, assistant superintendent, or other  
3 professional assistant for:

4 (i) Immorality;

5 (ii) Misconduct in office, including knowingly failing to report  
6 suspected child abuse in violation of § 5–704 of the Family Law Article;

7 (iii) Insubordination;

8 (iv) Incompetency; or

9 (v) Willful neglect of duty.

10 (2) (I) Before removing an individual, the county board shall send the  
11 individual a copy of the charges against [him] **THE INDIVIDUAL** and give [him] **THE**  
12 **INDIVIDUAL** an opportunity within 10 days to request [a]:

13 1. A hearing **BEFORE THE COUNTY BOARD; OR**

14 2. A HEARING BEFORE AN ARBITRATOR IN ACCORDANCE  
15 WITH PARAGRAPH (5) OF THIS SUBSECTION.

16 (II) IF AN INDIVIDUAL'S REQUEST DOES NOT SPECIFY THAT THE  
17 HEARING BE BEFORE AN ARBITRATOR, THE REQUEST SHALL BE CONSIDERED A  
18 REQUEST FOR A HEARING BEFORE THE COUNTY BOARD.

19 (3) If the individual requests a hearing **BEFORE THE COUNTY BOARD**  
20 within the 10–day period:

21 (i) The county board promptly shall hold a hearing, but a hearing  
22 may not be set within 10 days after the county board sends the individual a notice of the  
23 hearing; and

24 (ii) The individual shall have an opportunity to be heard before the  
25 county board, in person or by counsel, and to bring witnesses to the hearing.

26 (4) The individual may appeal from the decision of the county board to the  
27 State Board.

28 (5) (I) IF THE INDIVIDUAL OR THE INDIVIDUAL'S  
29 REPRESENTATIVE REQUESTS A HEARING BEFORE AN ARBITRATOR WITHIN THE  
30 10–DAY PERIOD, THE HEARING SHALL BE CONDUCTED IN ACCORDANCE WITH THIS  
31 PARAGRAPH.

1                   **(II) 1. AN ARBITRATOR SHALL BE SELECTED AS PROVIDED**  
2 **IN THIS SUBPARAGRAPH.**

3                   **2. IF THE SUPERINTENDENT AND THE INDIVIDUAL OR**  
4 **THE INDIVIDUAL'S REPRESENTATIVE AGREE ON AN ARBITRATOR, THE ARBITRATOR**  
5 **SHALL BE CHOSEN BY MUTUAL AGREEMENT OF THE PARTIES.**

6                   **3. IF THE SUPERINTENDENT AND THE INDIVIDUAL OR**  
7 **THE INDIVIDUAL'S REPRESENTATIVE CANNOT AGREE ON AN ARBITRATOR:**

8                   **A. THE COUNTY BOARD SHALL REQUEST FROM THE**  
9 **AMERICAN ARBITRATION ASSOCIATION A LIST OF THE ARBITRATORS THAT ARE**  
10 **AVAILABLE TO HEAR THIS TYPE OF DISPUTE AND MAKE A DECISION IN A TIMELY**  
11 **MANNER; AND**

12                   **B. THE PARTIES SHALL ALTERNATELY STRIKE**  
13 **ARBITRATORS FROM THE LIST.**

14                   **(III) THE RULES OF LABOR ARBITRATION SHALL APPLY.**

15                   **(IV) A STENOGRAPHIC RECORD SHALL BE MADE OF THE**  
16 **PROCEEDINGS BEFORE THE ARBITRATOR.**

17                   **(V) 1. THE ARBITRATOR SHALL DETERMINE WHETHER THE**  
18 **COUNTY BOARD HAS SUFFICIENT CAUSE FOR SUSPENSION OR DISMISSAL OF THE**  
19 **INDIVIDUAL.**

20                   **2. A LESSER PENALTY THAN DISMISSAL MAY BE**  
21 **IMPOSED BY THE ARBITRATOR ONLY TO THE EXTENT THAT EITHER PARTY**  
22 **PROPOSES THE LESSER PENALTY IN THE PROCEEDING.**

23                   **(VI) IN MAKING A DECISION, THE ARBITRATION PROCEEDING IS**  
24 **GOVERNED BY THIS SUBTITLE AND BY THE COLLECTIVE BARGAINING AGREEMENT**  
25 **APPLICABLE TO THE INDIVIDUAL.**

26                   **(VII) EXCEPT AS PROVIDED IN SUBPARAGRAPH (VIII) OF THIS**  
27 **PARAGRAPH, THE COUNTY BOARD SHALL PAY THE FULL COST AND EXPENSES OF**  
28 **THE ARBITRATION, INCLUDING:**

29                   **1. THE AMERICAN ARBITRATION ASSOCIATION'S**  
30 **ADMINISTRATIVE FEES;**

31                   **2. THE FULL COST OF THE STENOGRAPHY AND**  
32 **TRANSCRIPTION SERVICES;**

1                   **3. REASONABLE EXPENSES FOR REQUIRED TRAVEL;**

2                   **4. REASONABLE FEES AND EXPENSES INCURRED OR**  
 3 **CHARGED BY THE ARBITRATOR; AND**

4                   **5. REASONABLE EXPENSES ASSOCIATED WITH ANY**  
 5 **WITNESS OR EVIDENCE PRODUCED AT THE REQUEST OF THE ARBITRATOR.**

6                   **(VIII) 1. THE SUPERINTENDENT AND THE INDIVIDUAL SHALL**  
 7 **PAY THEIR OWN RESPECTIVE COSTS AND EXPENSES ASSOCIATED WITH ANY WITNESS**  
 8 **OR EVIDENCE PRODUCED BY THEM.**

9                   **2. IF THE ARBITRATOR DETERMINES THAT THE COUNTY**  
 10 **BOARD HAD SUFFICIENT CAUSE TO SUSPEND OR DISMISS THE INDIVIDUAL, THEN**  
 11 **THE INDIVIDUAL SHALL PAY 50% OF THE FEES AND EXPENSES INCURRED OR**  
 12 **CHARGED BY THE ARBITRATOR AND THE ADMINISTRATIVE FEES, IF ANY, OF THE**  
 13 **AMERICAN ARBITRATION ASSOCIATION.**

14                   **(IX) 1. THE DECISION AND AWARD BY THE ARBITRATOR ARE**  
 15 **FINAL AND BINDING ON THE PARTIES.**

16                   **2. AN INDIVIDUAL MAY REQUEST JUDICIAL REVIEW BY A**  
 17 **CIRCUIT COURT, WHICH SHALL BE GOVERNED BY THE MARYLAND UNIFORM**  
 18 **ARBITRATION ACT.**

19                   **[(5)] (6)** Notwithstanding any provision of local law, in Baltimore City the  
 20 suspension and removal of assistant superintendents and higher levels shall be as provided  
 21 by the personnel system established by the Baltimore City Board of School Commissioners  
 22 under § 4-311 of this article.

23                   (b) (1) Except as provided in paragraph (3) of this subsection, the probationary  
 24 period of employment of a certificated employee in a local school system shall cover a period  
 25 of 3 years from the date of employment and shall consist of a 1-year employment contract  
 26 that may be renewed by the county board.

27                   (2) (i) A county board shall evaluate annually a nontenured certificated  
 28 employee based on established performance evaluation criteria.

29                   (ii) Subject to subparagraph (iii) of this paragraph, if the nontenured  
 30 certificated employee is not on track to qualify for tenure at any formal evaluation point:

31                   1. A mentor promptly shall be assigned to the employee to  
 32 provide the employee comprehensive guidance and instruction; and



1                                   6.     Includes observations; and

2                                   7.     Includes feedback.

3           (c)   (1)    In this subsection, “student growth” means student progress assessed  
4 by multiple measures and from a clearly articulated baseline to one or more points in time.

5                           (2)   (i)    Subject to subparagraph (iii) of this paragraph, the State Board  
6 shall adopt regulations that establish general standards for performance evaluations for  
7 certificated teachers and principals that include observations, clear standards, rigor, and  
8 claims and evidence of observed instruction.

9                                   (ii)   The regulations adopted under subparagraph (i) of this  
10 paragraph shall include default model performance evaluation criteria.

11                                   (iii)  Before the proposal of the regulations required under this  
12 paragraph, the State Board shall solicit information and recommendations from each local  
13 school system and convene a meeting wherein this information and these recommendations  
14 are discussed and considered.

15                           (3)   Subject to paragraph (6) of this subsection:

16                                   (i)    A county board shall establish performance evaluation criteria  
17 for certificated teachers and principals in the local school system based on the general  
18 standards adopted under paragraph (2) of this subsection that are mutually agreed on by  
19 the local school system and the exclusive employee representative.

20                                   (ii)   Nothing in this paragraph shall be construed to require mutual  
21 agreement under subparagraph (i) of this paragraph to be governed by Subtitles 4 and 5 of  
22 this title.

23                           (4)   Subject to paragraph (7) of this subsection, the performance evaluation  
24 criteria developed under paragraph (3) of this subsection:

25                                   (i)    Shall include data on student growth as a significant component  
26 of the evaluation and as one of multiple measures; and

27                                   (ii)   May not be based solely on an existing or newly created single  
28 examination or assessment.

29                           (5)   (i)    An existing or newly created single examination or assessment  
30 may be used as one of the multiple measures.

31                                   (ii)   No single criterion shall account for more than 35% of the total  
32 performance evaluation criteria.

1           (6) If a local school system and the exclusive employee representative fail  
2 to mutually agree under paragraph (3) of this subsection, the default model performance  
3 evaluation criteria adopted by the State Board under paragraph (2)(ii) of this subsection  
4 shall take effect in the local jurisdiction 6 months following the final adoption of the  
5 regulations.

6           (7) Any performance evaluation criteria developed under this subsection  
7 may not require student growth data based on State assessments to be used to make  
8 personnel decisions before the 2016–2017 school year.

9           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 October 1, 2018.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.