

SENATE BILL 569

F1, P4

9lr2617

By: **Senators Pugh, Frosh, Lenett, Muse, Raskin, and Stone**

Introduced and read first time: February 6, 2009

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Education – Collective Bargaining – Topics of Negotiation**

3 FOR the purpose of including the discipline and discharge of an employee for just
4 cause and employee transfers and assignments among the matters a public
5 school employer must meet and negotiate with a certain employee organization
6 on request; repealing the public school employer's authority to negotiate due
7 process for discipline and discharge with a certain employee organization under
8 certain circumstances; and generally relating to collective bargaining for public
9 school employees.

10 BY repealing and reenacting, without amendments,

11 Article – Education

12 Section 6–501

13 Annotated Code of Maryland

14 (2008 Replacement Volume)

15 BY repealing and reenacting, with amendments,

16 Article – Education

17 Section 6–510

18 Annotated Code of Maryland

19 (2008 Replacement Volume)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article – Education**

23 6–501.

24 (a) In this subtitle the following words have the meanings indicated.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) “Confidential employee” includes an individual whose employment
2 responsibilities require knowledge of the public school employer’s posture in the
3 collective negotiation process, as determined by the public school employer in
4 negotiations with an employee organization that requests negotiation on this issue.

5 (c) “Employee organization” means an organization that:

6 (1) Includes noncertificated employees of a public school employer; and

7 (2) Has as one of its main purposes the representation of the
8 employees in their relations with that public school employer.

9 (d) “Management personnel” includes an individual who is engaged mainly
10 in executive and managerial functions, as determined by the public school employer in
11 negotiation with an employee organization that requests negotiation on this issue.

12 (e) “Noncertificated employee”, in Montgomery County, means only a
13 full-time employee.

14 (f) (1) “Public school employee” means a noncertificated individual who is
15 employed for at least 9 months a year on a full-time basis by a public school employer.

16 (2) “Public school employee” includes a noncertificated employee in
17 Baltimore City notwithstanding that the noncertificated employee does not work for at
18 least 9 months a year on a full-time basis.

19 (3) “Public school employee” does not include:

20 (i) Management personnel;

21 (ii) A confidential employee; or

22 (iii) Any individual designated by the public school employer to
23 act in a negotiating capacity as provided in § 6-510(b) of this subtitle.

24 (g) (1) “Public school employer” means the county board in each county.

25 (2) “Public school employer” includes the Baltimore City Board of
26 School Commissioners.

27 (h) “Supervisory employee” includes any individual who responsibly directs
28 the work of other employees, as determined by the public school employer in
29 negotiation with an employee organization that requests negotiation on this issue.

30 6-510.

31 (a) (1) In this section, “negotiate” includes the duty to:

- 1 (i) Confer in good faith, at all reasonable times; and
2 (ii) Reduce to writing the matters agreed on as a result of the
3 negotiations.

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

7 (b) (1) On request, a public school employer or at least two of its
8 designated representatives shall meet and negotiate with at least two representatives
9 of the employee organization that is designated as the exclusive negotiating agent for
10 the public school employees in a unit of the county on all matters that relate to
11 salaries, wages, hours, and other working conditions, **INCLUDING THE DISCIPLINE**
12 **AND DISCHARGE OF AN EMPLOYEE FOR JUST CAUSE, AND EMPLOYEE**
13 **TRANSFERS AND ASSIGNMENTS.**

14 (2) Except as provided in paragraph (3) of this subsection, a public
15 school employer or at least two of its designated representatives may negotiate with at
16 least two representatives of the employee organization that is designated as the
17 exclusive negotiating agent for the public school employees in a unit of the county on
18 other matters[, including due process for discipline and discharge,] that are mutually
19 agreed to by the employer and the employee organization.

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

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

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

30 (d) (1) If, on the request of either party, the State Superintendent
31 determines from the facts that an impasse is reached in negotiations between a public
32 school employer and an employee organization that is designated as an exclusive
33 negotiating agent, the assistance and advice of the State Board may be requested,
34 with the consent of both parties.

35 (2) If consent is not given and at the request of either party, a panel
36 shall be named to aid in resolving the differences.

37 (3) The panel shall contain three individuals chosen as follows:

1 (i) One member is to be named by each party within 3 days;
2 and

3 (ii) The third member is to be chosen by the other two members
4 within 10 days after the request.

5 (4) The State Board or the panel selected shall meet with the parties
6 to aid in resolving the differences, and, if the matter is not resolved, shall make a
7 written report and recommendation within 30 days after the request.

8 (5) A copy of the report shall be sent to representatives of the public
9 school employer and the employee organization.

10 (6) All costs of the impasse proceedings, including mediation, shall be
11 shared equally by the public school employer and the employee organization.

12 (7) Notwithstanding any other provision of this subtitle, the public
13 school employer shall make the final determination as to matters which have been the
14 subject of negotiation, but this final determination is subject to the other provisions of
15 this article concerning the fiscal relationship between the public school employer and
16 the county commissioners and county council.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2009.