

CHAPTER 285

(House Bill 792)

AN ACT concerning

Education – Collective Bargaining – Topics of Negotiation

FOR the purpose of including the discipline and discharge of an employee for just cause ~~and employee transfers and assignments~~ among the matters a public school employer must meet and negotiate with a certain employee organization on request; repealing the public school employer's authority to negotiate due process for discipline and discharge with a certain employee organization under certain circumstances; providing for the application of this Act; and generally relating to collective bargaining for public school employees.

BY repealing and reenacting, without amendments,

Article – Education

Section 6–501

Annotated Code of Maryland

(2008 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Education

Section 6–510

Annotated Code of Maryland

(2008 Replacement Volume)

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

Article – Education

6–501.

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

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

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

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

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

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

(e) "Noncertificated employee", in Montgomery County, means only a full-time employee.

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

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

(3) "Public school employee" does not include:

(i) Management personnel;

(ii) A confidential employee; or

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

(g) (1) "Public school employer" means the county board in each county.

(2) "Public school employer" includes the Baltimore City Board of School Commissioners.

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

6-510.

(a) (1) In this section, "negotiate" includes the duty to:

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

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

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

(b) (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 THE DISCIPLINE AND DISCHARGE OF AN EMPLOYEE FOR JUST CAUSE, ~~AND 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[, including due process for discipline and discharge,] 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 (d) of this section.

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

(d) (1) If, on the request of either party, the State Superintendent 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 assistance and advice of the State Board may be requested, with the consent of both parties.

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

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

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

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

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

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

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any negotiations regarding the discipline and discharge of an employee for just cause requested or entered into before the effective date of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 7, 2009.