

SB0590/873827/1

BY: Senator Brinkley

AMENDMENTS TO SENATE BILL 590
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 9, after “representative” insert “for certain public school employees”; in lines 11 and 24, in each instance, strike “a” and substitute “certain”; in lines 11, 14, and 24, in each instance, strike “employer” and substitute “employers”; in line 14, strike the first “a” and substitute “certain”; strike beginning with “repealing” in line 18 down through “regarding” in line 19 and substitute “providing a certain process to be followed for”; and in line 19, after “in” insert “certain”.

On page 2, in line 2, after “between” insert “certain”; in line 3, after “requiring” insert “certain”; in line 10, after “involving” insert “certain”; in line 19, after “changes,” insert “making certain conforming changes;”; in line 23, after “6-405(f),” insert “6-404(b) and (c), 6-407(c),”; in the same line, strike “6-408” and substitute “6-408(d)”; in the same line, after “6-501,” insert “and”; in the same line, strike “, 6-510, and 6-511”; and in line 28, strike “6-408.1” and substitute “6-4A-01 through 6-4A-12 to be under the new subtitle “Subtitle 4A. Organization of Certificated Employees of Appointed County Boards”; 6-5A-01 through 6-5A-13 to be under the new subtitle “Subtitle 5A. Organizations of Noncertificated Employees of Appointed County Boards””.

AMENDMENT NO. 2

On page 3, in lines 6 and 11, in each instance, strike “4” and substitute “4A”; in lines 6 and 11, in each instance, strike “5” and substitute “5A”; strike lines 16 and 17; in line 18, strike “(C)” and substitute “(b)”; strike beginning with “or” in line 19 down through “City” in line 20; in line 23, strike the brackets; and in the same line, strike “(D)”.

On page 4, in lines 3, 7, 29, and 30, in each instance, strike the brackets; in lines 3 and 30, strike “(E)” and “(F)”, respectively; strike beginning with “or” in line 4 down

(Over)

through “City,” in line 5; in line 7, strike “**6-408(C)**”; strike in their entirety lines 15 through 19, inclusive; in line 29, strike “**6-501(I)**”; and in lines 30 and 31, strike “or the Baltimore City Board of School Commissioners” and substitute “**THAT IS ELECTED OR HAS A COMBINATION OF ELECTED AND APPOINTED MEMBERS**”.

On page 5, in lines 2 and 9, in each instance, strike the brackets; in line 4, strike “or individuals of equivalent status in Baltimore City”; strike beginning with the second comma in line 15 down through “made” in line 17; after line 24, insert:

“6-404.

(b) [(1) Except as provided in paragraph (2) of this subsection, the public school employer shall determine the composition of the unit in negotiation with any employee organization that requests negotiation concerning the composition of the unit.

[(2) In Baltimore County, the public school employer may designate a separate unit comprised of all registered nurses employed by the county in elementary schools or special schools.]

(c) [(1) Except as provided in paragraph (2) of this subsection, there may not be more than two units in a county.

[(2) In Baltimore County, there may not be more than three units, provided that one unit consists of elementary and special school nurses and one unit consists of employees whose position requires an administrative and supervisory certificate and supervisory noncertificated employees as defined under § 6-501(h) of this title.]

6-407.

(c) (1) In Montgomery County, Prince George's County, [Baltimore County, Baltimore City,] and Howard County, the public school employer may negotiate with the employee organization designated as the exclusive representative for the public school employees in a unit, a reasonable service or representation fee, to be charged nonmembers for representing them in negotiations, contract administration, including grievances, and other activities as are required under subsection (b) of this section.

(2) The service or representation fee may not exceed the annual dues of the members of the organization.

(3) An employee who is a substitute teacher and who works on a short-term day-to-day basis is not required to pay a service or representation fee.

(4) An employee whose religious beliefs are opposed to joining or financially supporting any collective bargaining organization is:

(i) Not required to pay a service or representation fee; and

(ii) Required to pay an amount of money as determined in paragraph (2) of this subsection to a nonreligious, nonunion charity or to such other charitable organization as may be mutually agreed upon by the employee and the exclusive representative, and who furnishes to the public school employer and the exclusive representative written proof of such payment.

[(5) (i) In Baltimore County, the provisions of this subsection shall apply only to employees who are hired on or after July 1, 1997.

(ii) The provisions of this paragraph apply if an agency or representation fee is negotiated in Baltimore County.

(iii) 1. Subject to the provisions of subparagraph 2 of this subparagraph, the employee organization designated as the exclusive representative for the public school employees shall indemnify and hold harmless the Board of Education of Baltimore County against any and all claims, demands, suits, or any other forms of liability that may arise out of, or by reason of, action taken by the board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.

2. The board shall retain without charge to the board the services of counsel that are designated by the exclusive representative with regard to any claim, demand, suit, or any other liability that may arise out of, or by reason of, action taken by the board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.

(iv) The employee organization designated as the exclusive representative shall submit to the board an annual audit from an external auditor that reflects the operational expenses of the employee organization and explains how the representation fee is calculated based on the audit.

(v) 1. The agency or representation fee shall be based only on the expenses incurred by the employee organization in its representation in negotiations, contract administration, including the handling of grievances, and other activities, as required under this section.

2. Any political activities of the employee organization designated as the exclusive representative may not be financed by the funds collected from the agency or representation fee.]

(6) In Montgomery County, an employee who is a home or hospital teacher and who works on a short-term day-to-day basis is not required to pay a service or representation fee.

[(f) In Anne Arundel County:

(1) The public school employer may negotiate with the employee organization designated as the exclusive representative for the public school employees in a unit, a reasonable service or representation fee to be charged nonmembers for representing them in negotiations, contract administration, including grievances, and other activities as are required under subsection (b) of this section.

(2) (i) Subject to the provisions of subparagraph (ii) of this paragraph, the employee organization designated as the exclusive representative for the public school employees shall indemnify and hold harmless the Anne Arundel County Board of Education against any and all claims, demands, suits, or any other forms of liability that may arise out of, or by reason of, action taken by the board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.

(ii) The board shall retain without charge to the board the services of counsel that are designated by the exclusive representative with regard to any claim, demand, suit, or any other liability that may arise out of, or by reason of, action taken by the board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.

(3) The employee organization designated as the exclusive representative shall submit to the Anne Arundel County Board of Education an annual audit from an external auditor that reflects the operational expenses of the employee organization and explains how the service or representation fee is calculated based on the audit.

(4) (i) The service or representation fee shall be based only on the expenses incurred by the employee organization in its representation in negotiations, contract administration, including grievances, and other activities under this section.

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(ii) Political activities of the employee organization designated as the exclusive representative may not be financed with the funds collected from the service or representation fee.

(5) An employee whose religious beliefs are opposed to joining or financially supporting any collective bargaining organization is:

(i) Not required to pay a service or representation fee; and

(ii) Required to pay an amount of money as determined under paragraph (1) of this subsection to a nonreligious, nonunion charity or to another charitable organization that is mutually agreed upon by the employee and the exclusive representative, and who furnishes to the public school employer and the exclusive representative written proof of the payment.

(6) Any negotiated agreement that includes a representation fee also shall contain a provision that requires that an amount of revenue equal to 25% of the annual representation fees collected and maintained by the local bargaining representative be designated for professional development for represented educators.

(7) This subsection shall apply only to employees who are hired on or after October 1, 2004.];

and after line 25, insert:

“(d) (7) Notwithstanding any other provision of this subtitle, the public school employer shall make the final determination as to matters that 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[, and Mayor and City Council of Baltimore City].”

On pages 5 through 11, strike the lines beginning with line 26 on page 5 through line 18 on page 11, inclusive.

On page 11, strike lines 21 and 22; in line 23, strike “(C)” and substitute “(b)”; in line 27, strike the brackets; and in the same line, strike “(D)”.

On page 12, in lines 1, 5, 7, 17, 18, and 22, in each instance, strike the brackets; in lines 1, 5, 7, 18, and 22, strike “(E)”, “(F)”, “(G)”, “(H)”, and “(I)”, respectively; in line 17, strike “6-510(C)”; in line 18, strike “(1)”; in line 18, strike “the” and substitute “A”; in lines 18 and 19, strike “in each county” and substitute “of education that is elected or has a combination of elected and appointed members”; and strike in their entirety lines 20 and 21.

On pages 12 through 19, strike the lines beginning with line 25 on page 12 through line 9 on page 19, inclusive.

On page 19, after line 9, insert:

“SUBTITLE 4A. ORGANIZATIONS OF CERTIFICATED EMPLOYEES OF APPOINTED COUNTY BOARDS.”

6-4A-01.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “BOARD” MEANS THE PUBLIC SCHOOL LABOR RELATIONS BOARD ESTABLISHED UNDER SUBTITLE 8 OF THIS TITLE.

(C) “EMPLOYEE ORGANIZATION” MEANS AN ORGANIZATION THAT:

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(1) INCLUDES CERTIFICATED EMPLOYEES OF A PUBLIC SCHOOL EMPLOYER OR INDIVIDUALS OF EQUIVALENT STATUS IN BALTIMORE CITY; AND

(2) HAS AS ONE OF ITS MAIN PURPOSES THE REPRESENTATION OF THE EMPLOYEES IN THEIR RELATIONS WITH THAT PUBLIC SCHOOL EMPLOYER.

(D) (1) "HOME AND HOSPITAL TEACHER" MEANS A TEACHER EMPLOYED BY A PUBLIC SCHOOL EMPLOYER TO PROVIDE INSTRUCTIONAL SERVICES TO A PUBLIC SCHOOL STUDENT WHO IS UNABLE TO FUNCTION EFFECTIVELY IN THE CLASSROOM SETTING DUE TO THE STUDENT'S MEDICAL, PHYSICAL, OR EMOTIONAL CONDITION.

(2) A HOME AND HOSPITAL TEACHER MAY TEACH IN:

(I) A PRIVATE HOME;

(II) A HOSPITAL;

(III) A THERAPEUTIC CENTER;

(IV) A SCHOOL; OR

(V) ANY OTHER APPROPRIATE SITE.

(E) (1) "PUBLIC SCHOOL EMPLOYEE" MEANS A CERTIFICATED PROFESSIONAL INDIVIDUAL WHO IS EMPLOYED BY A PUBLIC SCHOOL EMPLOYER OR AN INDIVIDUAL OF EQUIVALENT STATUS IN BALTIMORE CITY,

EXCEPT FOR A COUNTY SUPERINTENDENT OR AN INDIVIDUAL DESIGNATED BY THE PUBLIC SCHOOL EMPLOYER TO ACT IN A NEGOTIATING CAPACITY AS PROVIDED IN § 6-408(C) OF THIS SUBTITLE.

(2) IN BALTIMORE COUNTY, “PUBLIC SCHOOL EMPLOYEE” INCLUDES:

(I) A SECONDARY SCHOOL NURSE, AN ELEMENTARY SCHOOL NURSE, AND A SPECIAL SCHOOL NURSE; AND

(II) SUPERVISORY NONCERTIFICATED EMPLOYEES AS DEFINED UNDER § 6-501(H) OF THIS TITLE.

(F) “PUBLIC SCHOOL EMPLOYER” MEANS A COUNTY BOARD OF EDUCATION THAT IS APPOINTED OR THE BALTIMORE CITY BOARD OF SCHOOL COMMISSIONERS.

6-4A-02.

(A) PUBLIC SCHOOL EMPLOYEES MAY FORM, JOIN, AND PARTICIPATE IN THE ACTIVITIES OF EMPLOYEE ORGANIZATIONS OF THEIR OWN CHOICE FOR THE PURPOSE OF BEING REPRESENTED ON ALL MATTERS THAT RELATE TO SALARIES, WAGES, HOURS, AND OTHER WORKING CONDITIONS.

(B) AN EMPLOYEE ORGANIZATION MAY ESTABLISH REASONABLE:

(1) RESTRICTIONS AS TO WHO MAY JOIN; AND

(2) PROVISIONS FOR THE DISMISSAL OF INDIVIDUALS FROM MEMBERSHIP.

6-4A-03.

A PUBLIC SCHOOL EMPLOYEE MAY REFUSE TO JOIN OR PARTICIPATE IN THE ACTIVITIES OF EMPLOYEE ORGANIZATIONS.

6-4A-04.

(A) EACH PUBLIC SCHOOL EMPLOYER SHALL DESIGNATE, AS PROVIDED IN THIS SUBTITLE, WHICH EMPLOYEE ORGANIZATION, IF ANY, SHALL BE THE EXCLUSIVE REPRESENTATIVE OF ALL PUBLIC SCHOOL EMPLOYEES IN A SPECIFIED UNIT IN THE COUNTY.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE PUBLIC SCHOOL EMPLOYER SHALL DETERMINE THE COMPOSITION OF THE UNIT IN NEGOTIATION WITH ANY EMPLOYEE ORGANIZATION THAT REQUESTS NEGOTIATION CONCERNING THE COMPOSITION OF THE UNIT.

(2) IN BALTIMORE COUNTY, THE PUBLIC SCHOOL EMPLOYER MAY DESIGNATE A SEPARATE UNIT COMPRISED OF ALL REGISTERED NURSES EMPLOYED BY THE COUNTY IN ELEMENTARY SCHOOLS OR SPECIAL SCHOOLS.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THERE MAY NOT BE MORE THAN TWO UNITS IN A COUNTY.

(2) IN BALTIMORE COUNTY, THERE MAY NOT BE MORE THAN THREE UNITS, PROVIDED THAT ONE UNIT CONSISTS OF ELEMENTARY AND SPECIAL SCHOOL NURSES AND ONE UNIT CONSISTS OF EMPLOYEES WHOSE POSITION REQUIRES AN ADMINISTRATIVE AND SUPERVISORY CERTIFICATE AND SUPERVISORY NONCERTIFICATED EMPLOYEES AS DEFINED UNDER § 6-5A-01(H) OF THIS TITLE.

(D) ALL ELIGIBLE PUBLIC SCHOOL EMPLOYEES SHALL:

(1) BE INCLUDED IN ONE OF THESE UNITS; AND

(2) HAVE THE RIGHTS GRANTED IN THIS SUBTITLE.

6-4A-05.

(A) THE DESIGNATION OF AN EMPLOYEE ORGANIZATION AS AN EXCLUSIVE REPRESENTATIVE SHALL BE MADE AS PROVIDED IN THIS SECTION.

(B) IF AN EMPLOYEE ORGANIZATION CERTIFIES TO THE PUBLIC SCHOOL EMPLOYER THAT IT HAS A MEMBERSHIP ENROLLMENT OF AT LEAST 30 PERCENT OF THE TOTAL NUMBER OF PUBLIC SCHOOL EMPLOYEES IN A SPECIFIED UNIT IN A COUNTY AS OF JUNE 1 OF THE YEAR IN WHICH CERTIFICATION IS MADE, THIS CERTIFICATION IS A REQUEST FOR RECOGNITION AS EXCLUSIVE REPRESENTATIVE OF ALL PUBLIC SCHOOL EMPLOYEES IN THE SPECIFIED UNIT IN THE COUNTY.

(C) IF ANOTHER EMPLOYEE ORGANIZATION CERTIFIES THAT IT HAS A MEMBERSHIP ENROLLMENT OF AT LEAST 10 PERCENT OF THE TOTAL NUMBER OF PUBLIC SCHOOL EMPLOYEES IN THE UNIT AS OF THE SAME JUNE 1, AN

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ELECTION SHALL BE HELD IN WHICH THE PUBLIC SCHOOL EMPLOYEES IN THE UNIT SHALL BE OFFERED THE OPPORTUNITY TO CHOOSE:

(1) ONE OF THE EMPLOYEE ORGANIZATIONS AS THE EXCLUSIVE REPRESENTATIVE OF ALL PUBLIC SCHOOL EMPLOYEES IN THE UNIT; OR

(2) NOT TO HAVE EXCLUSIVE REPRESENTATION.

(D) IF NO OTHER EMPLOYEE ORGANIZATION CERTIFIES THAT IT HAS A MEMBERSHIP ENROLLMENT OF AT LEAST 10 PERCENT OF THE TOTAL NUMBER OF PUBLIC SCHOOL EMPLOYEES IN THE UNIT, ON THE REQUEST OF THE EMPLOYEE ORGANIZATION UNDER SUBSECTION (B) OF THIS SECTION, AN ELECTION SHALL BE HELD AND THE BALLOT SHALL OFFER A CHOICE BETWEEN:

(1) EXCLUSIVE REPRESENTATION BY THE ORGANIZATION; AND

(2) NOT TO HAVE EXCLUSIVE REPRESENTATION.

(E) THE PUBLIC SCHOOL EMPLOYER SHALL DESIGNATE THE EMPLOYEE ORGANIZATION DESCRIBED IN SUBSECTION (B) OF THIS SECTION AS THE EXCLUSIVE REPRESENTATIVE OF ALL PUBLIC SCHOOL EMPLOYEES IN THE SPECIFIED UNIT IN A COUNTY IF:

(1) NO OTHER EMPLOYEE ORGANIZATION CERTIFIES THAT IT HAS A MEMBERSHIP ENROLLMENT OF AT LEAST 10 PERCENT OF THE TOTAL NUMBER OF PUBLIC SCHOOL EMPLOYEES IN THE UNIT;

(2) THE EMPLOYEE ORGANIZATION DOES NOT REQUEST AN ELECTION UNDER SUBSECTION (D) OF THIS SECTION; AND

(3) THE EMPLOYEE ORGANIZATION CERTIFIES THAT IT HAS A MEMBERSHIP ENROLLMENT OF THE MAJORITY OF THE PUBLIC SCHOOL EMPLOYEES IN THE UNIT IN THE COUNTY.

(F) (1) THE BOARD SHALL ADOPT RULES AND REGULATIONS FOR:

(I) VERIFYING THE NUMBER OF CERTIFICATED EMPLOYEES OF THE PUBLIC SCHOOL EMPLOYER OR INDIVIDUALS OF EQUIVALENT STATUS IN BALTIMORE CITY WHO ARE MEMBERS IN GOOD STANDING OF AN EMPLOYEE ORGANIZATION ON THE DATE OF THE CERTIFICATION OR WHO HAVE SIGNED A PETITION UNDER THIS SECTION; AND

(II) HOLDING ELECTIONS UNDER THIS SECTION AND THE CERTIFICATION OF THEIR RESULTS.

(2) THE BOARD SHALL PROVIDE FOR SUPERVISION OF THESE ELECTIONS.

(3) THE ELECTIONS SHALL BE HELD:

(I) IN EACH SCHOOL FACILITY WHERE PUBLIC EMPLOYEES ARE ASSIGNED ON A REGULARLY SCHEDULED SCHOOL DAY;

(II) IN A MANNER ASSURING THE SECRECY OF THE BALLOT;
AND

(III) ON A REGULAR WORKING DAY FOR PUBLIC SCHOOL EMPLOYEES, BETWEEN JUNE 1 AND JUNE 15, INCLUSIVE, EXCEPT IN

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BALTIMORE CITY WHERE THE ELECTIONS SHALL BE HELD BETWEEN NOVEMBER 1 AND NOVEMBER 15 FOLLOWING THE DATE ON WHICH CERTIFICATION OF REQUIRED MEMBERSHIP ENROLLMENT IS MADE.

(4) IN ANY ELECTION HELD UNDER THIS SECTION, THE EMPLOYEE ORGANIZATION THAT RECEIVES THE LARGEST NUMBER OF VOTES CAST IN A UNIT SHALL BE DECLARED TO BE THE EXCLUSIVE REPRESENTATIVE OF ALL PUBLIC SCHOOL EMPLOYEES IN THE UNIT. IF THE LARGEST NUMBER OF VOTES IN THE ELECTION IS CAST NOT TO HAVE EXCLUSIVE REPRESENTATION, A REPRESENTATIVE MAY NOT BE DESIGNATED FOR THE UNIT.

(5) THE PUBLIC SCHOOL EMPLOYER SHALL PROVIDE ANY ASSISTANCE REQUIRED IN HOLDING THE ELECTIONS.

6-4A-06.

(A) (1) THE DESIGNATION OF AN EXCLUSIVE REPRESENTATIVE SHALL BE FOR AT LEAST 2 YEARS.

(2) AFTER THIS INITIAL PERIOD, THE ORGANIZATION SHALL BE THE EXCLUSIVE REPRESENTATIVE UNTIL ANOTHER ELECTION IS HELD.

(B) (1) AN ELECTION AFTER THE INITIAL PERIOD OF REPRESENTATION MAY BE HELD:

(I) ONLY AFTER THE END OF THE 2-YEAR PERIOD; AND

(II) ON PETITION SIGNED BY MORE THAN 20 PERCENT OF THE PUBLIC SCHOOL EMPLOYEES IN THE UNIT OF THE COUNTY.

(2) THIS ELECTION SHALL BE HELD IN THE SAME MANNER AS PROVIDED IN § 6-4A-05 OF THIS SUBTITLE.

(3) ALL SIGNATURES ON A PETITION REQUESTING AN ELECTION SHALL BE OBTAINED WITHIN 90 DAYS BEFORE THE ELECTION DATE.

6-4A-07.

(A) AN EMPLOYEE ORGANIZATION DESIGNATED AS AN EXCLUSIVE REPRESENTATIVE SHALL BE THE NEGOTIATING AGENT OF ALL PUBLIC SCHOOL EMPLOYEES IN THE UNIT IN THE COUNTY.

(B) AN EMPLOYEE ORGANIZATION DESIGNATED AS AN EXCLUSIVE REPRESENTATIVE SHALL REPRESENT ALL EMPLOYEES IN THE UNIT FAIRLY AND WITHOUT DISCRIMINATION, WHETHER OR NOT THE EMPLOYEES ARE MEMBERS OF THE EMPLOYEE ORGANIZATION.

(C) (1) IN BALTIMORE COUNTY AND BALTIMORE CITY, THE PUBLIC SCHOOL EMPLOYER MAY NEGOTIATE WITH THE EMPLOYEE ORGANIZATION DESIGNATED AS THE EXCLUSIVE REPRESENTATIVE FOR THE PUBLIC SCHOOL EMPLOYEES IN A UNIT, A REASONABLE SERVICE OR REPRESENTATION FEE, TO BE CHARGED NONMEMBERS FOR REPRESENTING THEM IN NEGOTIATIONS, CONTRACT ADMINISTRATION, INCLUDING GRIEVANCES, AND OTHER ACTIVITIES AS ARE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.

(2) THE SERVICE OR REPRESENTATION FEE MAY NOT EXCEED THE ANNUAL DUES OF THE MEMBERS OF THE ORGANIZATION.

(3) AN EMPLOYEE WHO IS A SUBSTITUTE TEACHER AND WHO WORKS ON A SHORT-TERM DAY-TO-DAY BASIS IS NOT REQUIRED TO PAY A SERVICE OR REPRESENTATION FEE.

(4) AN EMPLOYEE WHOSE RELIGIOUS BELIEFS ARE OPPOSED TO JOINING OR FINANCIALLY SUPPORTING ANY COLLECTIVE BARGAINING ORGANIZATION IS:

(I) NOT REQUIRED TO PAY A SERVICE OR REPRESENTATION FEE; AND

(II) REQUIRED TO PAY AN AMOUNT OF MONEY AS DETERMINED IN PARAGRAPH (2) OF THIS SUBSECTION TO A NONRELIGIOUS, NONUNION CHARITY OR TO SUCH OTHER CHARITABLE ORGANIZATION AS MAY BE MUTUALLY AGREED UPON BY THE EMPLOYEE AND THE EXCLUSIVE REPRESENTATIVE, AND WHO FURNISHES TO THE PUBLIC SCHOOL EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE WRITTEN PROOF OF SUCH PAYMENT.

(5) (I) IN BALTIMORE COUNTY, THE PROVISIONS OF THIS SUBSECTION SHALL APPLY ONLY TO EMPLOYEES WHO ARE HIRED ON OR AFTER JULY 1, 1997.

(II) THE PROVISIONS OF THIS PARAGRAPH APPLY IF AN AGENCY OR REPRESENTATION FEE IS NEGOTIATED IN BALTIMORE COUNTY.

(III) 1. SUBJECT TO THE PROVISIONS OF SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, THE EMPLOYEE ORGANIZATION DESIGNATED AS THE EXCLUSIVE REPRESENTATIVE FOR THE PUBLIC SCHOOL EMPLOYEES SHALL INDEMNIFY AND HOLD HARMLESS THE BOARD OF

EDUCATION OF BALTIMORE COUNTY AGAINST ANY AND ALL CLAIMS, DEMANDS, SUITS, OR ANY OTHER FORMS OF LIABILITY THAT MAY ARISE OUT OF, OR BY REASON OF, ACTION TAKEN BY THE BOARD OF EDUCATION OF BALTIMORE COUNTY FOR THE PURPOSE OF COMPLYING WITH ANY OF THE AGENCY OR REPRESENTATION FEE PROVISIONS OF THE NEGOTIATED AGREEMENT.

2. THE BOARD OF EDUCATION OF BALTIMORE COUNTY SHALL RETAIN WITHOUT CHARGE TO THE BOARD OF EDUCATION OF BALTIMORE COUNTY THE SERVICES OF COUNSEL THAT ARE DESIGNATED BY THE EXCLUSIVE REPRESENTATIVE WITH REGARD TO ANY CLAIM, DEMAND, SUIT, OR ANY OTHER LIABILITY THAT MAY ARISE OUT OF, OR BY REASON OF, ACTION TAKEN BY THE BOARD OF EDUCATION OF BALTIMORE COUNTY FOR THE PURPOSE OF COMPLYING WITH ANY OF THE AGENCY OR REPRESENTATION FEE PROVISIONS OF THE NEGOTIATED AGREEMENT.

(IV) THE EMPLOYEE ORGANIZATION DESIGNATED AS THE EXCLUSIVE REPRESENTATIVE SHALL SUBMIT TO THE BOARD OF EDUCATION OF BALTIMORE COUNTY AN ANNUAL AUDIT FROM AN EXTERNAL AUDITOR THAT REFLECTS THE OPERATIONAL EXPENSES OF THE EMPLOYEE ORGANIZATION AND EXPLAINS HOW THE REPRESENTATION FEE IS CALCULATED BASED ON THE AUDIT.

(V) 1. THE AGENCY OR REPRESENTATION FEE SHALL BE BASED ONLY ON THE EXPENSES INCURRED BY THE EMPLOYEE ORGANIZATION IN ITS REPRESENTATION IN NEGOTIATIONS, CONTRACT ADMINISTRATION, INCLUDING THE HANDLING OF GRIEVANCES, AND OTHER ACTIVITIES, AS REQUIRED UNDER THIS SECTION.

2. ANY POLITICAL ACTIVITIES OF THE EMPLOYEE ORGANIZATION DESIGNATED AS THE EXCLUSIVE REPRESENTATIVE MAY NOT BE FINANCED BY THE FUNDS COLLECTED FROM THE AGENCY OR REPRESENTATION FEE.

(F) IN ANNE ARUNDEL COUNTY:

(1) THE PUBLIC SCHOOL EMPLOYER MAY NEGOTIATE WITH THE EMPLOYEE ORGANIZATION DESIGNATED AS THE EXCLUSIVE REPRESENTATIVE FOR THE PUBLIC SCHOOL EMPLOYEES IN A UNIT, A REASONABLE SERVICE OR REPRESENTATION FEE TO BE CHARGED NONMEMBERS FOR REPRESENTING THEM IN NEGOTIATIONS, CONTRACT ADMINISTRATION, INCLUDING GRIEVANCES, AND OTHER ACTIVITIES AS ARE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.

(2) (I) SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE EMPLOYEE ORGANIZATION DESIGNATED AS THE EXCLUSIVE REPRESENTATIVE FOR THE PUBLIC SCHOOL EMPLOYEES SHALL INDEMNIFY AND HOLD HARMLESS THE ANNE ARUNDEL COUNTY BOARD OF EDUCATION AGAINST ANY AND ALL CLAIMS, DEMANDS, SUITS, OR ANY OTHER FORMS OF LIABILITY THAT MAY ARISE OUT OF, OR BY REASON OF, ACTION TAKEN BY THE ANNE ARUNDEL COUNTY BOARD OF EDUCATION FOR THE PURPOSE OF COMPLYING WITH ANY OF THE AGENCY OR REPRESENTATION FEE PROVISIONS OF THE NEGOTIATED AGREEMENT.

(II) THE ANNE ARUNDEL COUNTY BOARD OF EDUCATION SHALL RETAIN WITHOUT CHARGE TO THE ANNE ARUNDEL COUNTY BOARD OF EDUCATION THE SERVICES OF COUNSEL THAT ARE DESIGNATED BY THE EXCLUSIVE REPRESENTATIVE WITH REGARD TO ANY CLAIM, DEMAND, SUIT, OR

ANY OTHER LIABILITY THAT MAY ARISE OUT OF, OR BY REASON OF, ACTION TAKEN BY THE ANNE ARUNDEL COUNTY BOARD OF EDUCATION FOR THE PURPOSE OF COMPLYING WITH ANY OF THE AGENCY OR REPRESENTATION FEE PROVISIONS OF THE NEGOTIATED AGREEMENT.

(3) THE EMPLOYEE ORGANIZATION DESIGNATED AS THE EXCLUSIVE REPRESENTATIVE SHALL SUBMIT TO THE ANNE ARUNDEL COUNTY BOARD OF EDUCATION AN ANNUAL AUDIT FROM AN EXTERNAL AUDITOR THAT REFLECTS THE OPERATIONAL EXPENSES OF THE EMPLOYEE ORGANIZATION AND EXPLAINS HOW THE SERVICE OR REPRESENTATION FEE IS CALCULATED BASED ON THE AUDIT.

(4) (I) THE SERVICE OR REPRESENTATION FEE SHALL BE BASED ONLY ON THE EXPENSES INCURRED BY THE EMPLOYEE ORGANIZATION IN ITS REPRESENTATION IN NEGOTIATIONS, CONTRACT ADMINISTRATION, INCLUDING GRIEVANCES, AND OTHER ACTIVITIES UNDER THIS SECTION.

(II) POLITICAL ACTIVITIES OF THE EMPLOYEE ORGANIZATION DESIGNATED AS THE EXCLUSIVE REPRESENTATIVE MAY NOT BE FINANCED WITH THE FUNDS COLLECTED FROM THE SERVICE OR REPRESENTATION FEE.

(5) AN EMPLOYEE WHOSE RELIGIOUS BELIEFS ARE OPPOSED TO JOINING OR FINANCIALLY SUPPORTING ANY COLLECTIVE BARGAINING ORGANIZATION IS:

(I) NOT REQUIRED TO PAY A SERVICE OR REPRESENTATION FEE; AND

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(II) REQUIRED TO PAY AN AMOUNT OF MONEY AS DETERMINED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO A NONRELIGIOUS, NONUNION CHARITY OR TO ANOTHER CHARITABLE ORGANIZATION THAT IS MUTUALLY AGREED UPON BY THE EMPLOYEE AND THE EXCLUSIVE REPRESENTATIVE, AND WHO FURNISHES TO THE PUBLIC SCHOOL EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE WRITTEN PROOF OF THE PAYMENT.

(6) ANY NEGOTIATED AGREEMENT THAT INCLUDES A REPRESENTATION FEE ALSO SHALL CONTAIN A PROVISION THAT REQUIRES THAT AN AMOUNT OF REVENUE EQUAL TO 25% OF THE ANNUAL REPRESENTATION FEES COLLECTED AND MAINTAINED BY THE LOCAL BARGAINING REPRESENTATIVE BE DESIGNATED FOR PROFESSIONAL DEVELOPMENT FOR REPRESENTED EDUCATORS.

(7) THIS SUBSECTION SHALL APPLY ONLY TO EMPLOYEES WHO ARE HIRED ON OR AFTER OCTOBER 1, 2004.

6-4A-08.

(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

(Over)

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 CLEARLY OUTWEIGHS THE DIRECT IMPACT ON THE TEACHERS OR EMPLOYEES.

(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; 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; OR

(II) 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;

(Over)

(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 10, SUBTITLE 6, PART III OF THE STATE GOVERNMENT ARTICLE;

(VI) DECIDE WHETHER TO HEAR EVIDENCE OFFERED THROUGH AN ATTORNEY; AND

(VII) RECEIVE AND CONSIDER ALL EVIDENCE CONSIDERED RELEVANT BY THE BOARD, 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 FROM THE COUNTY'S GENERAL FUND 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.

6-4A-09.

(Over)

IF A FISCAL AUTHORITY DOES NOT APPROVE ENOUGH FUNDS TO IMPLEMENT THE NEGOTIATED AGREEMENT, THE PUBLIC SCHOOL EMPLOYER SHALL RENEGOTIATE THE FUNDS ALLOCATED FOR THESE PURPOSES BY THE FISCAL AUTHORITY WITH THE EMPLOYEE ORGANIZATION BEFORE THE PUBLIC SCHOOL EMPLOYER MAKES A FINAL DETERMINATION IN ACCORDANCE WITH A TIMETABLE AND PROCEDURE ESTABLISHED BY THE BOARD.

6-4A-10.

A PUBLIC SCHOOL EMPLOYER AND EMPLOYEE ORGANIZATION MAY NOT INTERFERE WITH, INTIMIDATE, RESTRAIN, COERCE, OR DISCRIMINATE AGAINST ANY PUBLIC SCHOOL EMPLOYEE BECAUSE OF THE EXERCISE OF HIS RIGHTS UNDER §§ 6-4A-02 AND 6-4A-03 OF THIS SUBTITLE.

6-4A-11.

(A) AN EMPLOYEE ORGANIZATION MAY NOT CALL OR DIRECT A STRIKE.

(B) (1) ANY EMPLOYEE ORGANIZATION DESIGNATED AS AN EXCLUSIVE REPRESENTATIVE THAT VIOLATES ANY PROVISION OF THIS SECTION SHALL HAVE ITS DESIGNATION AS EXCLUSIVE REPRESENTATIVE REVOKED BY THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION AND ANY OTHER EMPLOYEE ORGANIZATION THAT VIOLATES ANY PROVISION OF THIS SECTION IS INELIGIBLE TO BE DESIGNATED AS EXCLUSIVE REPRESENTATIVE FOR A PERIOD OF 2 YEARS AFTER THE VIOLATION.

(2) IF AN EMPLOYEE ORGANIZATION VIOLATES ANY PROVISION OF THIS SECTION, THE PUBLIC SCHOOL EMPLOYER SHALL STOP MAKING PAYROLL DEDUCTIONS FOR DUES OF THE ORGANIZATION FOR 1 YEAR AFTER THE VIOLATION.

6-4A-12.

(A) THIS SUBTITLE DOES NOT SUPERSEDE ANY OTHER PROVISION OF THE CODE OR THE RULES AND REGULATIONS OF PUBLIC SCHOOL EMPLOYERS THAT ESTABLISH AND REGULATE TENURE.

(B) THIS SUBTITLE DOES NOT MAKE THE STATE LABOR LAWS IN TITLES 3 AND 7 OF THE LABOR AND EMPLOYMENT ARTICLE APPLY TO PUBLIC SCHOOL EMPLOYMENT.

SUBTITLE 5A. ORGANIZATIONS OF NONCERTIFICATED EMPLOYEES OF APPOINTED COUNTY BOARDS.

6-5A-01.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "BOARD" MEANS THE PUBLIC SCHOOL LABOR RELATIONS BOARD ESTABLISHED UNDER SUBTITLE 8 OF THIS TITLE.

(C) "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.

(D) "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.

(E) "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.

(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 § 6-5A-10 OF THIS SUBTITLE.

(G) (1) "PUBLIC SCHOOL EMPLOYER" MEANS A COUNTY BOARD OF EDUCATION THAT IS APPOINTED.

(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.

6-5A-02.

(A) PUBLIC SCHOOL EMPLOYEES MAY FORM, JOIN, AND PARTICIPATE IN THE ACTIVITIES OF EMPLOYEE ORGANIZATIONS OF THEIR OWN CHOICE FOR THE PURPOSE OF BEING REPRESENTED ON ALL MATTERS THAT RELATE TO SALARIES, WAGES, HOURS, AND OTHER WORKING CONDITIONS.

(B) AN EMPLOYEE ORGANIZATION MAY ESTABLISH REASONABLE RESTRICTIONS AS TO WHO MAY JOIN AND REASONABLE PROVISIONS FOR THE DISMISSAL OF INDIVIDUALS FROM MEMBERSHIP, EXCEPT THAT THESE RESTRICTIONS AND PROVISIONS MAY NOT DISCRIMINATE WITH REGARD TO THE TERMS OR CONDITIONS OF MEMBERSHIP BECAUSE OF RACE, COLOR, MARITAL STATUS, CREED, SEX, AGE, OR NATIONAL ORIGIN.

(Over)

6-5A-03.

(A) A PUBLIC SCHOOL EMPLOYEE MAY REFUSE TO JOIN OR PARTICIPATE IN THE ACTIVITIES OF EMPLOYEE ORGANIZATIONS.

(B) (1) IN ANNE ARUNDEL COUNTY AND BALTIMORE COUNTY, THE COUNTY BOARD, WITH RESPECT TO NONCERTIFICATED EMPLOYEES, MAY NEGOTIATE A STRUCTURE OF REASONABLE SERVICE FEES TO BE CHARGED NONMEMBERS FOR REPRESENTATION IN NEGOTIATIONS AND GRIEVANCE MATTERS BY EMPLOYEE ORGANIZATIONS.

(2) IN ANNE ARUNDEL COUNTY, IF THE COUNTY BOARD NEGOTIATES A STRUCTURE OF FEES AS AUTHORIZED UNDER THIS SUBSECTION:

(I) EACH PARTY SHALL:

1. CONFER IN GOOD FAITH, AT ALL REASONABLE TIMES; AND

2. REDUCE TO WRITING THE MATTERS AGREED ON AS A RESULT OF THE NEGOTIATIONS; AND

(II) NEITHER PARTY IS REQUIRED TO AGREE TO ANY PROPOSAL OR TO MAKE ANY CONCESSION.

(3) (1) THE PROVISIONS OF THIS PARAGRAPH APPLY IF AN AGENCY OR REPRESENTATION FEE IS NEGOTIATED IN BALTIMORE COUNTY.

(II) 1. SUBJECT TO THE PROVISIONS OF SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, THE EMPLOYEE ORGANIZATION DESIGNATED AS THE EXCLUSIVE REPRESENTATIVE FOR THE PUBLIC SCHOOL EMPLOYEES SHALL INDEMNIFY AND HOLD HARMLESS THE BOARD OF EDUCATION OF BALTIMORE COUNTY AGAINST ANY AND ALL CLAIMS, DEMANDS, SUITS, OR ANY OTHER FORMS OF LIABILITY THAT MAY ARISE OUT OF, OR BY REASON OF, ACTION TAKEN BY THE BOARD FOR THE PURPOSE OF COMPLYING WITH ANY OF THE AGENCY OR REPRESENTATION FEE PROVISIONS OF THE NEGOTIATED AGREEMENT.

2. THE BOARD SHALL RETAIN WITHOUT CHARGE TO THE BOARD THE SERVICES OF COUNSEL THAT ARE DESIGNATED BY THE EXCLUSIVE REPRESENTATIVE WITH REGARD TO ANY CLAIM, DEMAND, SUIT, OR ANY OTHER LIABILITY THAT MAY ARISE OUT OF, OR BY REASON OF, ACTION TAKEN BY THE BOARD FOR THE PURPOSE OF COMPLYING WITH ANY OF THE AGENCY OR REPRESENTATION FEE PROVISIONS OF THE NEGOTIATED AGREEMENT.

(III) THE EMPLOYEE ORGANIZATION DESIGNATED AS THE EXCLUSIVE REPRESENTATIVE SHALL SUBMIT TO THE BOARD AN ANNUAL AUDIT FROM AN EXTERNAL AUDITOR THAT REFLECTS THE OPERATIONAL EXPENSES OF THE EMPLOYEE ORGANIZATION AND EXPLAINS HOW THE REPRESENTATION FEE IS CALCULATED BASED ON THE AUDIT.

(IV) 1. THE AGENCY OR REPRESENTATION FEE SHALL BE BASED ONLY ON THE EXPENSES INCURRED BY THE EMPLOYEE ORGANIZATION IN ITS REPRESENTATION IN NEGOTIATIONS, CONTRACT ADMINISTRATION, INCLUDING THE HANDLING OF GRIEVANCES, AND OTHER ACTIVITIES AS REQUIRED UNDER § 6-5A-09 OF THIS SUBTITLE; AND

(Over)

2. ANY POLITICAL ACTIVITIES OF THE EMPLOYEE ORGANIZATION DESIGNATED AS THE EXCLUSIVE REPRESENTATIVE MAY NOT BE FINANCED BY THE FUNDS COLLECTED FROM THE AGENCY OR REPRESENTATION FEE.

(E) IN BALTIMORE CITY, THE PUBLIC SCHOOL EMPLOYER SHALL NEGOTIATE WITH THE EMPLOYEE ORGANIZATION DESIGNATED AS THE EXCLUSIVE REPRESENTATIVE FOR THE PUBLIC SCHOOL EMPLOYEES IN A UNIT, A REASONABLE SERVICE OR REPRESENTATION FEE TO BE CHARGED TO NONMEMBERS FOR REPRESENTING THEM IN NEGOTIATIONS IN THE SAME MANNER THAT ANY SUCH FEE WAS PERMITTED UNDER LAW AND BARGAINED FOR PRIOR TO JANUARY 1, 1997.

6-5A-04.

(A) (1) EACH PUBLIC SCHOOL EMPLOYER MAY DESIGNATE, AS PROVIDED IN THIS SUBTITLE, WHICH EMPLOYEE ORGANIZATION, IF ANY, SHALL BE THE EXCLUSIVE REPRESENTATIVE OF ALL PUBLIC SCHOOL EMPLOYEES IN A SPECIFIED UNIT IN THE COUNTY.

(2) IN BALTIMORE CITY, THE PUBLIC SCHOOL EMPLOYER SHALL DESIGNATE, AS PROVIDED IN THIS SUBTITLE, WHICH EMPLOYEE ORGANIZATION, IF ANY, SHALL BE THE EXCLUSIVE REPRESENTATIVE OF ALL PUBLIC SCHOOL EMPLOYEES IN A SPECIFIED UNIT IN THE COUNTY.

(B) THE PUBLIC SCHOOL EMPLOYER SHALL DETERMINE THE COMPOSITION OF THE UNIT IN NEGOTIATION WITH ANY EMPLOYEE

ORGANIZATION THAT REQUESTS NEGOTIATION CONCERNING THE COMPOSITION OF THE UNIT.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THERE MAY NOT BE MORE THAN THREE UNITS IN A COUNTY AND A UNIT MAY NOT INCLUDE BOTH SUPERVISORY AND NONSUPERVISORY EMPLOYEES.

(2) IF A COUNTY HAS MORE THAN THREE RECOGNIZED UNITS AND, AS OF JULY 1, 1974, THE UNITS HAVE EXCLUSIVE REPRESENTATION FOR COLLECTIVE NEGOTIATIONS, THESE UNITS MAY CONTINUE AS NEGOTIATING UNITS.

(3) IN BALTIMORE COUNTY, THERE SHALL ONLY BE THREE NONSUPERVISORY UNITS IN ADDITION TO THE SUPERVISORY UNIT DEFINED UNDER § 6-4A-04(C)(2) OF THIS TITLE.

(4) IN BALTIMORE CITY, THE PUBLIC SCHOOL EMPLOYER MAY DESIGNATE A FOURTH UNIT COMPOSED OF ALL BALTIMORE CITY SCHOOL POLICE OFFICERS, AS DEFINED IN § 4-318 OF THIS ARTICLE, UP TO AND INCLUDING THE RANK OF LIEUTENANT.

(D) (1) ALL ELIGIBLE PUBLIC SCHOOL EMPLOYEES SHALL:

(I) BE INCLUDED IN ONE OF THESE UNITS; AND

(II) HAVE THE RIGHTS GRANTED IN THIS SUBTITLE.

(2) EXCEPT FOR AN INDIVIDUAL WHO IS DESIGNATED AS MANAGEMENT PERSONNEL OR A CONFIDENTIAL EMPLOYEE UNDER THIS SUBTITLE, EACH PUBLIC SCHOOL EMPLOYEE IS ELIGIBLE FOR MEMBERSHIP IN ONE OF THE NEGOTIATING UNITS.

6-5A-05.

(A) THE DESIGNATION OF AN EMPLOYEE ORGANIZATION AS AN EXCLUSIVE REPRESENTATIVE SHALL BE MADE AS PROVIDED IN THIS SECTION.

(B) IF AN EMPLOYEE ORGANIZATION CERTIFIES TO THE PUBLIC SCHOOL EMPLOYER THAT IT HAS A MEMBERSHIP ENROLLMENT OF AT LEAST 30 PERCENT OF THE TOTAL NUMBER OF PUBLIC SCHOOL EMPLOYEES IN A SPECIFIED UNIT IN A COUNTY AS OF JUNE 1 OF THE YEAR IN WHICH CERTIFICATION IS MADE, THIS CERTIFICATION IS A REQUEST FOR RECOGNITION AS EXCLUSIVE REPRESENTATIVE OF ALL PUBLIC SCHOOL EMPLOYEES IN THE SPECIFIED UNIT IN THE COUNTY.

(C) IF ANOTHER EMPLOYEE ORGANIZATION CERTIFIES THAT IT HAS A MEMBERSHIP ENROLLMENT OF AT LEAST 10 PERCENT OF THE TOTAL NUMBER OF PUBLIC SCHOOL EMPLOYEES IN THE UNIT AS OF THE SAME JUNE 1, AN ELECTION SHALL BE HELD IN WHICH THE PUBLIC SCHOOL EMPLOYEES IN THE UNIT SHALL BE OFFERED THE OPPORTUNITY TO CHOOSE:

(1) ONE OF THE EMPLOYEE ORGANIZATIONS AS THE EXCLUSIVE REPRESENTATIVE OF ALL PUBLIC SCHOOL EMPLOYEES IN THE UNIT; OR

(2) NOT TO HAVE EXCLUSIVE REPRESENTATION.

(D) IF NO OTHER EMPLOYEE ORGANIZATION CERTIFIES THAT IT HAS A MEMBERSHIP ENROLLMENT OF AT LEAST 10 PERCENT OF THE TOTAL NUMBER OF PUBLIC SCHOOL EMPLOYEES IN THE UNIT, ON THE REQUEST OF THE EMPLOYEE ORGANIZATION UNDER SUBSECTION (B) OF THIS SECTION, AN ELECTION SHALL BE HELD AND THE BALLOT SHALL OFFER A CHOICE BETWEEN:

- (1) EXCLUSIVE REPRESENTATION BY THE ORGANIZATION; AND
- (2) NOT TO HAVE EXCLUSIVE REPRESENTATION.

(E) THE PUBLIC SCHOOL EMPLOYER SHALL DESIGNATE THE EMPLOYEE ORGANIZATION DESCRIBED IN SUBSECTION (B) OF THIS SECTION AS THE EXCLUSIVE REPRESENTATIVE OF ALL PUBLIC SCHOOL EMPLOYEES IN THE SPECIFIED UNIT IN A COUNTY IF:

- (1) NO OTHER EMPLOYEE ORGANIZATION CERTIFIES THAT IT HAS A MEMBERSHIP ENROLLMENT OF AT LEAST 10 PERCENT OF THE TOTAL NUMBER OF PUBLIC SCHOOL EMPLOYEES IN THE UNIT;
- (2) THE EMPLOYEE ORGANIZATION DOES NOT REQUEST AN ELECTION UNDER SUBSECTION (D) OF THIS SECTION; AND
- (3) THE EMPLOYEE ORGANIZATION CERTIFIES THAT IT HAS A MEMBERSHIP ENROLLMENT OF THE MAJORITY OF THE PUBLIC SCHOOL EMPLOYEES IN THE UNIT IN THE COUNTY.

(F) (1) THE BOARD SHALL ADOPT RULES AND REGULATIONS FOR:

(I) VERIFYING THE NUMBER OF PUBLIC SCHOOL EMPLOYEES WHO ARE MEMBERS IN GOOD STANDING OF AN EMPLOYEE ORGANIZATION ON THE DATE OF THE CERTIFICATION OR WHO HAVE SIGNED A PETITION UNDER THIS SECTION; AND

(II) HOLDING ELECTIONS UNDER THIS SECTION AND THE CERTIFICATION OF THEIR RESULTS.

(2) THE BOARD SHALL PROVIDE FOR SUPERVISION OF THESE ELECTIONS.

(3) THE ELECTIONS SHALL BE HELD:

(I) IN EACH SCHOOL FACILITY WHERE PUBLIC SCHOOL EMPLOYEES ARE ASSIGNED ON A REGULARLY SCHEDULED SCHOOL DAY;

(II) IN A MANNER ASSURING THE SECRECY OF THE BALLOT;
AND

(III) ON A REGULAR WORKING DAY FOR PUBLIC SCHOOL EMPLOYEES, BETWEEN JUNE 1 AND JUNE 15, INCLUSIVE.

(4) IN ALL ELECTIONS HELD UNDER THIS SECTION, THE EMPLOYEE ORGANIZATION THAT RECEIVES A MAJORITY OF THE VOTES CAST IN A UNIT SHALL BE DECLARED TO BE THE EXCLUSIVE REPRESENTATIVE OF ALL PUBLIC SCHOOL EMPLOYEES IN THE UNIT. IF A MAJORITY OF THE VOTES IN THE ELECTION ARE CAST NOT TO HAVE EXCLUSIVE REPRESENTATION, A REPRESENTATIVE MAY NOT BE DESIGNATED FOR THE UNIT.

(5) THE TWO CHOICES ON THE BALLOT THAT RECEIVE THE MOST VOTES SHALL BE PLACED ON A BALLOT FOR A RUNOFF ELECTION THAT SHALL BE HELD IN THE SAME MANNER AS THE ORIGINAL ELECTION IF:

(I) MORE THAN ONE EMPLOYEE ORGANIZATION IS ON THE BALLOT;

(II) NO EMPLOYEE ORGANIZATION OBTAINS A MAJORITY OF THE VOTES; AND

(III) A MAJORITY OF THE VOTES IS NOT FOR “NOT TO HAVE EXCLUSIVE REPRESENTATION”.

(6) THE PUBLIC SCHOOL EMPLOYER SHALL PROVIDE ANY ASSISTANCE REQUIRED IN CONDUCTING THE ELECTIONS.

6-5A-06.

(A) (1) THE DESIGNATION OF AN EXCLUSIVE REPRESENTATIVE SHALL BE FOR AT LEAST 2 YEARS.

(2) AFTER THIS INITIAL PERIOD, THE ORGANIZATION SHALL BE THE EXCLUSIVE REPRESENTATIVE UNTIL ANOTHER ELECTION IS HELD.

(B) (1) AN ELECTION AFTER THE INITIAL PERIOD OF REPRESENTATION MAY BE HELD:

(I) ONLY AFTER THE END OF THE 2-YEAR PERIOD; AND

(II) ON PETITION SIGNED BY MORE THAN 20 PERCENT OF THE PUBLIC SCHOOL EMPLOYEES IN THE UNIT OF THE COUNTY.

(2) THIS ELECTION SHALL BE HELD IN THE SAME MANNER AS PROVIDED IN § 6-5A-05 OF THIS SUBTITLE.

(3) ALL SIGNATURES ON A PETITION REQUESTING AN ELECTION SHALL BE OBTAINED WITHIN 90 DAYS BEFORE THE ELECTION DATE.

6-5A-07.

(A) EMPLOYEE ORGANIZATIONS RECOGNIZED BY THE PUBLIC SCHOOL EMPLOYER AS THE EXCLUSIVE REPRESENTATIVE OF ALL PUBLIC SCHOOL EMPLOYEES IN A SPECIFIED UNIT ON JULY 1, 1978 SHALL CONTINUE TO BE THE EXCLUSIVE REPRESENTATIVE:

(1) FOR THE REST OF THE 2-YEAR INITIAL PERIOD AS PROVIDED BY § 6-5A-06 OF THIS SUBTITLE; AND

(2) BEYOND THE 2-YEAR PERIOD UNTIL ANOTHER ELECTION IS HELD AS PROVIDED UNDER § 6-5A-06 OF THIS SUBTITLE.

(B) ANY COLLECTIVE NEGOTIATION AGREEMENT THAT HAS BEEN ENTERED INTO BY AN EXCLUSIVE REPRESENTATIVE AND A PUBLIC EMPLOYER AS OF JULY 1, 1978 SHALL CONTINUE IN EFFECT FOR THE TERM OF THE AGREEMENT.

6-5A-08.

(A) AN EMPLOYEE ORGANIZATION DESIGNATED AS AN EXCLUSIVE REPRESENTATIVE SHALL BE THE NEGOTIATING AGENT OF ALL PUBLIC SCHOOL EMPLOYEES IN THE UNIT IN THE COUNTY.

(B) AN EMPLOYEE ORGANIZATION DESIGNATED AS AN EXCLUSIVE REPRESENTATIVE SHALL REPRESENT ALL EMPLOYEES IN THE UNIT FAIRLY AND WITHOUT DISCRIMINATION, WHETHER OR NOT THE EMPLOYEES ARE MEMBERS OF THE EMPLOYEE ORGANIZATION.

(C) ALL PUBLIC SCHOOL EMPLOYEES HAVE THE RIGHTS GRANTED UNDER THIS SUBTITLE.

6-5A-09.

(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 THE DISCIPLINE AND DISCHARGE OF AN EMPLOYEE FOR JUST CAUSE.

(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 PUBLIC SCHOOL EMPLOYER OR EMPLOYEE ORGANIZATION 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 EXCLUSIVE REPRESENTATIVE SHALL DELIVER TO THE BOARD A WRITTEN BRIEF ON THE ISSUE OF WHETHER THE TOPIC AT ISSUE IS MANDATORY, PERMISSIVE, OR ILLEGAL IN NATURE.

(V) AFTER RECEIPT OF THE 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 RECEIPT OF 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 CLEARLY OUTWEIGHS THE DIRECT IMPACT ON THE EMPLOYEES.

(D) 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.

(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; 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; OR

(II) 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 10, SUBTITLE 6, PART III OF THE STATE GOVERNMENT ARTICLE;

(VI) DECIDE WHETHER TO HEAR EVIDENCE OFFERED THROUGH AN ATTORNEY; AND

(VII) RECEIVE AND CONSIDER ALL EVIDENCE CONSIDERED RELEVANT BY THE BOARD, 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 FROM THE COUNTY'S GENERAL FUND 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 AND COUNTY COUNCIL.

6-5A-10.

IF THE FISCAL AUTHORITY DOES NOT APPROVE ENOUGH FUNDS TO IMPLEMENT THE NEGOTIATED AGREEMENT, THE PUBLIC SCHOOL EMPLOYER

SHALL RENEGOTIATE THE FUNDS ALLOCATED FOR THESE PURPOSES BY THE FISCAL AUTHORITY WITH THE EMPLOYEE ORGANIZATION BEFORE THE PUBLIC SCHOOL EMPLOYER MAKES A FINAL DETERMINATION IN ACCORDANCE WITH THE TIMETABLE AND PROCEDURE ESTABLISHED BY THE BOARD.

6-5A-11.

A PUBLIC SCHOOL EMPLOYER AND EMPLOYEE ORGANIZATION MAY NOT INTERFERE WITH, INTIMIDATE, RESTRAIN, COERCE, OR DISCRIMINATE AGAINST ANY PUBLIC SCHOOL EMPLOYEE BECAUSE OF THE EXERCISE OF HIS RIGHTS UNDER §§ 6-5A-02 AND 6-5A-03 OF THIS SUBTITLE.

6-5A-12.

(A) AN EMPLOYEE ORGANIZATION MAY NOT CALL OR DIRECT A STRIKE.

(B) (1) ANY EMPLOYEE ORGANIZATION DESIGNATED AS AN EXCLUSIVE REPRESENTATIVE THAT VIOLATES ANY PROVISION OF THIS SECTION SHALL HAVE ITS DESIGNATION AS EXCLUSIVE REPRESENTATIVE REVOKED BY THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION AND ANY OTHER EMPLOYEE ORGANIZATION THAT VIOLATES ANY PROVISION OF THIS SECTION IS INELIGIBLE TO BE DESIGNATED AS EXCLUSIVE REPRESENTATIVE FOR A PERIOD OF 2 YEARS AFTER THE VIOLATION.

(2) IF AN EMPLOYEE ORGANIZATION VIOLATES ANY PROVISION OF THIS SECTION, THE PUBLIC SCHOOL EMPLOYER SHALL STOP MAKING PAYROLL DEDUCTIONS FOR DUES OF THE ORGANIZATION FOR 1 YEAR AFTER THE VIOLATION.

6-5A-13.

THIS SUBTITLE DOES NOT MAKE THE STATE LABOR LAWS IN TITLES 3 AND 7 OF THE LABOR AND EMPLOYMENT ARTICLE APPLY TO PUBLIC SCHOOL EMPLOYMENT.".

On page 21, in lines 17 and 26, in each instance, strike "4" and substitute "4A"; and in the same lines, strike "5" and substitute "5A".