

# SENATE BILL 876

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CF 2lr0430

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By: **Senator Ferguson**

Introduced and read first time: February 3, 2012

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public School Teachers and Administrators – Appeals and Layoffs – Rights**  
3 **and Limitations**

4 FOR the purpose of limiting the review by the State Board of Education of the decision  
5 of a county board to suspend or dismiss certain public school teachers and  
6 administrators to a review on the record; requiring public school employers to  
7 negotiate teacher layoff policies as part of collective bargaining; requiring the  
8 use of performance evaluations in policies relating to layoffs of public school  
9 teachers; providing for the effective date of certain provisions of this Act;  
10 providing for the termination of certain provisions of this Act; and generally  
11 relating to the rights and limitations of rights of certain public school teachers  
12 and administrators regarding appeals and layoffs.

13 BY repealing and reenacting, with amendments,  
14 Article – Education  
15 Section 6–202(a), 6–203(e), and 6–408(c)  
16 Annotated Code of Maryland  
17 (2008 Replacement Volume and 2011 Supplement)

18 BY repealing and reenacting, without amendments,  
19 Article – Education  
20 Section 6–203(a), (c), (d), and (f)  
21 Annotated Code of Maryland  
22 (2008 Replacement Volume and 2011 Supplement)

23 BY repealing and reenacting, with amendments,  
24 Article – Education  
25 Section 6–408(b)  
26 Annotated Code of Maryland  
27 (2008 Replacement Volume and 2011 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (As enacted by Chapters 324 and 325 of the Acts of the General Assembly of  
2 2011)

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

5 **Article – Education**

6 6–202.

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

10 (i) Immorality;

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

13 (iii) Insubordination;

14 (iv) Incompetency; or

15 (v) Willful neglect of duty.

16 (2) Before removing an individual, the county board shall send the  
17 individual a copy of the charges against him and give him an opportunity within 10  
18 days to request a hearing.

19 (3) If the individual requests a hearing within the 10–day period:

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

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

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

27 **(II) THE REVIEW BY THE STATE BOARD OF THE DECISION**  
28 **OF A COUNTY BOARD TO SUSPEND OR DISMISS AN INDIVIDUAL DESCRIBED IN**  
29 **PARAGRAPH (1) OF THIS SUBSECTION SHALL BE LIMITED TO A REVIEW ON THE**  
30 **RECORD.**

1           (5) Notwithstanding any provision of local law, in Baltimore City the  
2 suspension and removal of assistant superintendents and higher levels shall be as  
3 provided by the personnel system established by the Baltimore City Board of School  
4 Commissioners under § 4-311 of this article.

5 6-203.

6           (a) For all proceedings before a county board under §§ 4-205(c), 6-202, and  
7 7-305 of this article, the county board may have the proceedings heard first by a  
8 hearing examiner.

9           (c) The hearing examiner shall submit to the county board and appellant:

10           (1) A record of the proceedings and exhibits; and

11           (2) The hearing examiner's findings of fact, conclusions of law, and  
12 recommendation.

13           (d) Parties to the proceedings before the hearing examiner may make  
14 arguments before the county board.

15           (e) (1) After it reviews the record and the recommendation of the hearing  
16 examiner, the county board shall make a decision.

17           (2) (I) The decision may be appealed to the State Board as provided  
18 in this article.

19                       **(II) THE REVIEW BY THE STATE BOARD OF THE DECISION**  
20 **OF A COUNTY BOARD TO SUSPEND OR DISMISS AN INDIVIDUAL DESCRIBED IN §**  
21 **6-202(A)(1) OF THIS SUBTITLE SHALL BE LIMITED TO A REVIEW ON THE**  
22 **RECORD.**

23           (f) Each county board shall adopt reasonable rules and regulations to  
24 regulate the proceedings before the hearing examiner.

25 6-408.

26           (c) (1) (I) On request a public school employer or at least two of its  
27 designated representatives shall meet and negotiate with at least two representatives  
28 of the employee organization that is designated as the exclusive negotiating agent for  
29 the public school employees in a unit of the county on all matters that relate to  
30 salaries, wages, hours, **TEACHER LAYOFF POLICIES**, and other working conditions,  
31 including procedures regarding employee transfers and assignments.

32                       **(II) ANY POLICY ON TEACHER LAYOFFS NEGOTIATED**  
33 **UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL PROVIDE THAT**

1 **PERFORMANCE EVALUATIONS SHALL ACCOUNT FOR NO LESS THAN 51% OF THE**  
2 **FORMULA USED TO MAKE LAYOFF DECISIONS.**

3 (2) Except as provided in paragraph (3) of this subsection, a public  
4 school employer or at least two of its designated representatives may negotiate with at  
5 least two representatives of the employee organization that is designated as the  
6 exclusive negotiating agent for the public school employees in a unit of the county on  
7 other matters that are mutually agreed to by the employer and the employee  
8 organization.

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

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

16 (5) (i) If a public school employer and an employee organization  
17 dispute whether a proposed topic for negotiation is a mandatory, a permissive, or an  
18 illegal topic of bargaining, either party may submit a request for a decision in writing  
19 to the Board for final resolution of the dispute.

20 (ii) A request for a decision shall:

21 1. Clearly identify each topic of bargaining for which the  
22 party is requesting a decision; and

23 2. Be made before the Board determines that an impasse  
24 has been reached.

25 (iii) If the Board receives a request for a decision, within 7 days  
26 after receipt of the request, the Board shall issue a letter to the public school employer  
27 and the employee organization that requests written briefs in support of their  
28 respective positions.

29 (iv) Within 7 days after receipt of a request from the Board for  
30 written briefs, the public school employer and the employee organization shall deliver  
31 to the Board a written brief on the issue of whether the topic is mandatory,  
32 permissive, or illegal in nature.

33 (v) After receipt of written briefs from the public school  
34 employer and the employee organization, the Board shall:

35 1. Consider the merits of each party's arguments;

1                         2.     Render a decision determining whether the topic of  
2 negotiation is mandatory, permissive, or illegal; and

3                         3.     Issue the written decision to the parties within 14  
4 days after receiving the written briefs.

5                         (vi)   1.     The Board may adopt regulations, guidelines, and  
6 policies to carry out its rights and responsibilities under this section.

7                         2.     To resolve disputes under this section, the Board shall  
8 develop a balancing test to determine whether the impact of the matter on the school  
9 system as a whole outweighs the direct impact on the teachers or employees.

10                       (6)     In Montgomery County, the exclusive negotiating agent for the  
11 public school employees in a unit and the public school employer shall meet and  
12 negotiate under this section the salaries, wages, hours, and other working conditions  
13 of all persons actually employed as substitute teachers or home and hospital teachers.

14                       SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
15 read as follows:

16                                         **Article – Education**

17 6–408.

18                       (b)    (1)    **(I)**     On request a public school employer or at least two of its  
19 designated representatives shall meet and negotiate with at least two representatives  
20 of the employee organization that is designated as the exclusive negotiating agent for  
21 the public school employees in a unit of the county on all matters that relate to  
22 salaries, wages, hours, **TEACHER LAYOFF POLICIES**, and other working conditions.

23                                         **(II) ANY POLICY ON TEACHER LAYOFFS NEGOTIATED**  
24 **UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL PROVIDE THAT**  
25 **PERFORMANCE EVALUATIONS SHALL ACCOUNT FOR NO LESS THAN 51% OF THE**  
26 **FORMULA USED TO MAKE LAYOFF DECISIONS.**

27                       (2)     Except as provided in paragraph (3) of this subsection, a public  
28 school employer or at least two of its designated representatives may negotiate with at  
29 least two representatives of the employee organization that is designated as the  
30 exclusive negotiating agent for the public school employees in a unit of the county on  
31 other matters that are mutually agreed to by the employer and the employee  
32 organization.

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

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

5           (5) In Montgomery County, the exclusive negotiating agent for the  
6 public school employees in a unit and the public school employer shall meet and  
7 negotiate under this section the salaries, wages, hours, and other working conditions  
8 of all persons actually employed as substitute teachers or home and hospital teachers.

9           SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall  
10 take effect on the taking effect of the termination provision specified in Section 6 of  
11 Chapters 324 and 325 of the Acts of the General Assembly of 2011. If that termination  
12 provision takes effect, Section 1 of this Act shall be abrogated and of no further force  
13 and effect. This Act may not be interpreted to have any effect on that termination  
14 provision.

15           SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions  
16 of Section 3 of this Act, this Act shall take effect July 1, 2012.