

Chapter 701

(Senate Bill 646)

AN ACT concerning

Public School System Contracts – Prohibited Provisions

FOR the purpose of prohibiting certain provisions from being included in certain public school system contracts; specifying that certain provisions are void if included in a public school system contract; specifying the applicable law and interpretation of public school system contracts; and generally relating to prohibited provisions in public school system contracts.

BY adding to

Article – Education

Section 4–148

Annotated Code of Maryland

(2025 Replacement Volume and 2025 Supplement)

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

Article – Education

4–148.

(A) IN THIS SECTION, “PUBLIC SCHOOL SYSTEM CONTRACT” MEANS ANY AGREEMENT ENTERED INTO BY A PUBLIC SCHOOL SYSTEM.

(B) THIS SECTION DOES NOT APPLY TO COLLECTIVE BARGAINING AGREEMENTS ENTERED INTO UNDER:

(1) TITLE 6, SUBTITLES 4 AND 5 OF THIS ARTICLE;

(2) TITLE 9.5, SUBTITLE 7 OF THIS ARTICLE; OR

(3) TITLE 22 OF THE STATE GOVERNMENT ARTICLE.

~~(B)~~ (C) EXCEPT AS REQUIRED BY STATE OR FEDERAL LAW, A PUBLIC SCHOOL SYSTEM CONTRACT MAY NOT INCLUDE A PROVISION THAT:

(1) REQUIRES THE PUBLIC SCHOOL SYSTEM TO INDEMNIFY, DEFEND, OR HOLD HARMLESS ANOTHER PERSON WITHOUT AN APPROPRIATION OF FUNDS FOR THAT PURPOSE;

(2) REQUIRES THE PUBLIC SCHOOL SYSTEM TO AGREE TO BINDING ARBITRATION OR ANY OTHER BINDING EXTRAJUDICIAL DISPUTE RESOLUTION PROCESS;

(3) NAMES A JURISDICTION OR VENUE FOR ANY ACTION OR DISPUTE AGAINST THE PUBLIC SCHOOL SYSTEM OTHER THAN A COURT OF PROPER JURISDICTION IN THE STATE;

(4) REQUIRES THE PUBLIC SCHOOL SYSTEM TO AGREE TO LIMIT THE LIABILITY FOR ANY DIRECT LOSS TO THE PUBLIC SCHOOL SYSTEM FOR BODILY INJURY, DEATH, OR DAMAGE TO PROPERTY OF THE PUBLIC SCHOOL SYSTEM CAUSED BY THE NEGLIGENCE, INTENTIONAL OR WILLFUL MISCONDUCT, FRAUDULENT ACT, RECKLESSNESS, OR OTHER TORTIOUS CONDUCT OF A PERSON OR A PERSON'S EMPLOYEES OR AGENTS OR A PROVISION THAT WOULD OTHERWISE IMPOSE AN INDEMNIFICATION OBLIGATION ON THE PUBLIC SCHOOL SYSTEM;

(5) REQUIRES THE PUBLIC SCHOOL SYSTEM TO BE BOUND BY A TERM OR CONDITION THAT:

(i) IS UNKNOWN TO THE PUBLIC SCHOOL SYSTEM AT THE TIME OF SIGNING A CONTRACT;

(ii) MAY BE UNILATERALLY CHANGED BY THE OTHER PARTY;

OR

(iii) IS ELECTRONICALLY ACCEPTED BY A PUBLIC SCHOOL SYSTEM EMPLOYEE WITHOUT AUTHORITY;

(6) RESTRICTS A PUBLIC SCHOOL SYSTEM'S DISCRETION TO SELECT THE APPROPRIATE LEGAL COUNSEL TO REPRESENT ITS INTERESTS;

(7) IS INCONSISTENT WITH THE PUBLIC SCHOOL SYSTEM'S OBLIGATIONS UNDER TITLE 3 OR TITLE 4 OF THE GENERAL PROVISIONS ARTICLE;

(8) CREATES A DEFICIENCY, INCURS A LIABILITY, OR SPENDS MONEY IN EXCESS OF THE APPROPRIATION, OR BINDS A PUBLIC SCHOOL SYSTEM TO PAY AN AMOUNT UNLESS FUNDS HAVE BEEN APPROPRIATED FOR THAT PURPOSE;

(9) REQUIRES AUTOMATIC RENEWAL OF THE CONTRACT AND OBLIGATES THE PUBLIC SCHOOL SYSTEM TO ALLOCATE FUNDING IN SUBSEQUENT FISCAL YEARS; OR

(10) LIMITS THE PUBLIC SCHOOL SYSTEM’S ABILITY TO RECOVER A DIFFERENCE IN THE COST OF A REPLACEMENT CONTRACTOR TO PERFORM THE SERVICES NOT PERFORMED BY THE ORIGINAL CONTRACTOR.

~~(C)~~ **(D)** IF A PUBLIC SCHOOL SYSTEM CONTRACT CONTAINS A PROVISION LISTED UNDER SUBSECTION ~~(B)~~ **(C)** OF THIS SECTION, THE PROVISION IS VOID AB INITIO AND THE CONTRACT CONTAINING THAT PROVISION SHALL BE ENFORCEABLE AS IF IT DID NOT CONTAIN THE PROVISION.

~~(D)~~ **(E)** A PUBLIC SCHOOL SYSTEM CONTRACT THAT CONTAINS A PROVISION LISTED UNDER SUBSECTION ~~(B)~~ **(C)** OF THIS SECTION SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH STATE LAW, NOTWITHSTANDING ANY TERM OR CONDITION TO THE CONTRARY IN THE CONTRACT.

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 public school system contract executed before the effective date of this Act or to the renewal or extension of a public school system contract executed before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2026.

Approved by the Governor, May 26, 2026.