

BALTIMORE COUNTY PUBLIC SCHOOLS

DATE: February 12, 2002

TO: BOARD OF EDUCATION

FROM: Dr. Joe A. Hairston, Superintendent

SUBJECT: Senate Bill 336 (House Bill 544) Education – Baltimore County
Unit Composition – Certificated and Non-Certificated Employees

ORIGINATOR: George P. Poff, Jr., Assistant to the Superintendent,
Governmental Relations

RESOURCE PERSON(S): Randall D. Grimsley, Executive Director, Human Resources
Carol Saffran-Brinks, Esq., Assistant County Attorney

RECOMMENDATION

That the Board of Education support Senate Bill 336 (House Bill 544) Education – Baltimore County Unit Composition – Certificated and Non-Certificated Employees.

Clarification of the rights of certificated and non-certificated professionals defined in the Baltimore County section of the statewide collective bargaining law.

Appendix I – Recommendation for Approval of SB 336

Appendix II – Senate Bill 336

Appendix III – Key School Legislation, Current Status of Legislation that the Board previously supported or opposed.

**Recommendation for Approval of SB 336 (HB 544)
February 12, 2002**

SB 336 (HB 544) Education – Baltimore County Unit Composition – Certificated and Non-certificated Employees

Under current provisions of the collective bargaining law pertaining to “certificated employees,” Baltimore County may have no more than three units.

Pursuant to the law, “the public school employer shall determine the composition of the unit.” We have one unit composed of teachers, one of elementary and special education school nurses, and a third comprised of administrative and supervisory personnel.

This legislation, proposed by the CASE organization, would codify the composition of that unit to correspond to prior action of the Board of Education of Baltimore County in recognizing a bargaining unit comprised of both certificated and non-certificated personnel.

The sponsor of the bill, Senator Michael Collins, held the bill last year when the fact was raised that though the unit is comprised of administrators, whose jobs require professional educational certification, and others, whose jobs do not (Facilities’ supervisors being an example), that the rights under Board Policy for professional personnel were not intended to pertain to administrators whose jobs do not require certification.

Since the 2001 Legislative Session, with the understanding of the sponsor and the superintendent, CASE representatives, and staff have worked to develop language to clarify those concerns. That new language appears as lines 19 and 20 on the last page of the bill.

The superintendent recommends Board support of SB 336 (HB 544).

APPROVED:

George P. Poff, Jr.
Assistant to the Superintendent

SENATE BILL 336

Unofficial Copy
F3
SB 253/01 - EEA

2002 Regular Session
2lr1984
CF 2lr2410

By: **Senator Collins**

Introduced and read first time: January 28, 2002

Assigned to: Education, Health, and Environmental Affairs

Reassigned: Finance, January 29, 2002

A BILL ENTITLED

1 AN ACT concerning

2 **Education - Baltimore County - Public School Employees**

3 FOR the purpose of altering the definition of "public school employee" as it applies to
4 provisions that relate to organizations of employees in Baltimore County;
5 authorizing a public school employer in Baltimore County to designate a certain
6 unit comprised of certain employees; establishing a certain unit of certain
7 employees; providing for the retroactive application of this Act; providing that
8 this Act may not be construed to confer certain rights on certain employees; and
9 generally relating to organizations for public school employees in Baltimore
10 County.

11 BY repealing and reenacting, with amendments,
12 Article - Education
13 Section 6-401, 6-404, and 6-505
14 Annotated Code of Maryland
15 (2001 Replacement Volume)

16 BY repealing and reenacting, without amendments,
17 Article - Education
18 Section 6-501
19 Annotated Code of Maryland
20 (2001 Replacement Volume)

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

23 **Article - Education**

24 6-401.

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

26 (b) "Employee organization" means an organization that:

1 (1) Includes certificated employees of a public school employer or
2 individuals of equivalent status in Baltimore City; and

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

5 (c) (1) "Home and hospital teacher" means a teacher employed by a public
6 school employer to provide instructional services to a public school student who is
7 unable to function effectively in the classroom setting due to the student's medical,
8 physical, or emotional condition.

9 (2) A home and hospital teacher may teach in:

10 (i) A private home;

11 (ii) A hospital;

12 (iii) A therapeutic center;

13 (iv) A school; or

14 (v) Any other appropriate site.

15 (d) (1) "Public school employee" means a certificated professional individual
16 who is employed by a public school employer or an individual of equivalent status in
17 Baltimore City, except for a county superintendent or an individual designated by the
18 public school employer to act in a negotiating capacity as provided in § 6-408(b) of
19 this subtitle.

20 (2) In Montgomery County, "public school employees" include:

21 (i) Certificated and noncertificated substitute teachers employed
22 by the public school employer for at least 7 days before March 1 of the school fiscal
23 year ending June 30, 1978, and each year after; and

24 (ii) Home and hospital teachers employed by the public school
25 employer for at least 7 days before March 1 of the school fiscal year ending June 30,
26 2000, and each year after.

27 (3) In Baltimore County, "public school employee" includes:

28 (I) [a] A secondary school nurse, an elementary school nurse, and
29 a special school nurse; AND

30 (II) PROFESSIONAL AND ADMINISTRATIVE EMPLOYEES,
31 INCLUDING CERTIFICATED AND NONCERTIFICATED EMPLOYEES, AND SUPERVISORY
32 EMPLOYEES AS DEFINED UNDER § 6-501 OF THIS TITLE.

33 (4) In Frederick County, "public school employee" includes a social
34 worker employed by a public school employer.

1 (e) "Public school employer" means a county board of education or the New
2 Baltimore City Board of School Commissioners.

3 6-404.

4 (a) Each public school employer shall designate, as provided in this subtitle,
5 which employee organization, if any, shall be the exclusive representative of all public
6 school employees in a specified unit in the county.

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

11 (2) In Baltimore County, the public school employer may designate a
12 separate unit comprised of all registered nurses employed by the county in
13 elementary schools or special schools AND A SEPARATE UNIT COMPRISED OF
14 PROFESSIONAL AND ADMINISTRATIVE EMPLOYEES, INCLUDING CERTIFICATED AND
15 NONCERTIFICATED EMPLOYEES, AND SUPERVISORY EMPLOYEES AS DEFINED
16 UNDER § 6-501 OF THIS TITLE.

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

19 (2) In Baltimore County, there may not be more than three units,
20 provided that one unit consists of elementary and special school nurses AND ONE
21 UNIT CONSISTS OF PROFESSIONAL AND ADMINISTRATIVE EMPLOYEES, INCLUDING
22 CERTIFICATED AND NONCERTIFICATED EMPLOYEES, AND SUPERVISORY
23 EMPLOYEES AS DEFINED UNDER § 6-501 OF THIS TITLE.

24 (d) All eligible public school employees shall:

25 (1) Be included in one of these units; and

26 (2) Have the rights granted in this subtitle.

27 6-501.

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

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

33 (c) "Employee organization" means an organization that:

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

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

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

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

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

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

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

12 (i) Management personnel;

13 (ii) A confidential employee; or

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

16 (g) (1) "Public school employer" means the county board in each county
17 except:

18 (i) Somerset;

19 (ii) Wicomico; and

20 (iii) Worcester.

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

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

26 6-505.

27 (a) (1) Each public school employer may designate, as provided in this
28 subtitle, which employee organization, if any, shall be the exclusive representative of
29 all public school employees in a specified unit in the county.

30 (2) In Baltimore City, Garrett County, and Frederick County, the public
31 school employer shall designate, as provided in this subtitle, which employee
32 organization, if any, shall be the exclusive representative of all public school
33 employees in a specified unit in the county.

1 (b) The public school employer shall determine the composition of the unit in
2 negotiation with any employee organization that requests negotiation concerning the
3 composition of the unit.

4 (c) (1) [There] EXCEPT AS PROVIDED IN § 6-404(B) AND (C) OF THIS TITLE,
5 THERE may not be more than three units in a county and a unit may not include both
6 supervisory and nonsupervisory employees.

7 (2) If a county has more than three recognized units and, as of July 1,
8 1974, the units have exclusive representation for collective negotiations, these units
9 may continue as negotiating units.

10 (d) (1) All eligible public school employees shall:

11 (i) Be included in one of these units; and

12 (ii) Have the rights granted in this subtitle.

13 (2) Except for an individual who is designated as management personnel
14 or a confidential employee under this subtitle, each public school employee is eligible
15 for membership in one of the negotiating units.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
17 construed retroactively and shall be applied to and interpreted to affect all actions of
18 the Baltimore County School Board on or after January 1, 1994.

19 SECTION 3. AND BE IT FURTHER ENACTED, That this Act may not be
20 construed to confer rights arising from certification on noncertificated employees.

21 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2002.

KEY SCHOOL LEGISLATION February 12, 2002

HB 15 Education – Teacher Salary Signing Bonus – Eligibility Requirements

This bill would alter the eligibility requirement for the teacher-signing bonus to require a grade point average of at least 3.6 on a 4.0 scale or its equivalent from an accredited institution of higher education. Would further increase the teacher salary-signing bonus from the current \$1,000 to \$3,000. Would also alter the amount the teacher must reimburse the State if the teacher fails to meet the three-year commitment from \$1,000 to \$3,000. This enhancement of the existing program is an added incentive to recruitment.

The Board supports HB 15.

HB 51 Education – State Stipends – Eligibility of Library Media Specialists and Reading Specialists

This bill would alter the definition of classroom teacher to include library media specialists and reading specialists to grant library media specialists and reading specialists eligibility to receive specific State stipends.

The Board supports HB 51.

SB 153 Education – Full-Day Kindergarten and Half-Day Pre-Kindergarten Program – Establishment

By the 2007-2008 school year, each county board would be required to establish full-day kindergarten programs in that county. The State Board shall adopt regulations to phase in the implementation by the 2007-2008 school year. Would repeal the exemption for kindergarten programs from requirements for minimum days or hours of operation.

Would require the Governor to include \$5 million in the State budget for fiscal years 2004 through 2008 for the establishment of half-day pre-kindergarten programs in each local school system in the State for 4-year-old children who are potentially at risk of failing in school. The school systems may contract with a private provider for the operation of the half-day pre-kindergarten programs, provided that the programs comply in all respects with the laws and regulations governing early childhood and extended elementary education programs.

The Board has voiced its strong support of full-day and pre-kindergarten programs and has expressed that position in a Board Resolution.

The Board has testified in support of the Thornton Commission’s Recommendations, which include these provisions. This legislation is expected to be filed in the near future.

SB 169 Teachers’ Retirement and Pension Systems – Reemployment of Retired Personnel

This legislation expands the category of employees who may retire and be rehired by a board of education without a penalty in their retirement benefit by adding assistant principals and guidance counselors. If passed, this legislation offers local boards additional staffing options in areas of shortage.

The Board supports SB 169.

SB 186 (HB 701) Education – Children in Out-of-County Living Arrangements – Informal Kinship Care

This legislation would alter the current residency or “domicile” law governing student enrollment. Residency with a guardian would be expanded to be defined as a “relative who exercises care, custody, and control over the child 24 hours a day and 7 days a week” to be referred to as “informal kinship care.” Serious family hardships, upon which a superintendent “SHALL” admit a child, are defined. Verification of said “kinship care” is achieved through submission of an affidavit specified in the bill and cites penalties for fraudulent use and notes the superintendent will remove the subject child.

The bill as presented requires no substantiation of the hardships cited, only the presentation of the affidavit.

Staff recommends that the presenter of the affidavit be required to present some evidence of the hardship as a companion requirement for admission, for instance, in the case of the death of a parent of the child, a copy of the death certificate.

The Board recommends that the affidavit language be amended to require supporting documentation of one or more of the hardships in paragraph (c)(IV) of the new language proposed for Section 7-101. If this is not attainable, the “SHALL” in line 22 of page 3 of the bill must be changed to the word “MAY.” If some standards of verifiable hardship are not in place, the potential to a return to the conditions that preceded the “domicile” law are significant.

SB 233 (HB 290) Education – Negotiations Between Public School Employers and Employee Organizations

This Administration Bill, through a few brief amendments to current law, completely revises the scope of what may be bargained and negates the role and decisions of the State Board of Education as the arbiter of school labor issues in Maryland. The language, “A PUBLIC SCHOOL EMPLOYER MAY NOT NEGOTIATE ANY MATTER THAT IS PRECLUDED BY APPLICABLE LAW,” would have the converse effect of allowing

the many items, declared illegal subjects of bargaining by the State Board, to be bargained. As they are not precluded by “law” but rather by Board decisions, issues such as class size and calendar would be on the table. This safeguard of the scope of collective bargaining being vested with the lay citizen leadership of a State Board of Education is a cornerstone of Maryland education governance.

Additionally, this bill includes language that would allow, in the non-certification section of the law, that the substance of discipline and discharge be an item of bargaining. If it were to be bargained, and a case were at hand, present binding grievance law would allow a third party to decide the discipline or lack thereof that we could enforce.

The Board opposes SB 233(HB 290).