

**BALTIMORE COUNTY PUBLIC SCHOOLS**

**DATE:** March 13, 2007

**TO:** **BOARD OF EDUCATION**

**FROM:** Dr. Joe A. Hairston, Superintendent

**SUBJECT:** **LEGISLATION UPDATE**

**ORIGINATOR:** Dr. Donald A. Peccia Assistant Superintendent of Human Resources  
and Governmental Relations

**RECOMMENDATION**

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That the Board of Education consider taking positions on Key School Legislation.

Attachment I – Key School Legislation Summary  
Attachment II – New House Bills

**BALTIMORE COUNTY PUBLIC SCHOOLS  
KEY SCHOOL LEGISLATION  
March 13, 2007**

**UPDATED LEGISLATION**

(\*Status is as of 2/28/2007)

- Support Continued full-funding of the Bridge to Excellence (Thornton)

The Governor's budget recommends full funding of Thornton for FY08. No funds were included for the Geographic Cost of Education Index (GCEI), although SB109 and HB391 call for a phase-in of the GCEI beginning either this year (HB391) or in 2009 (SB109). No action has been taken on either of these bills to date.

- Support considerable increases in capital funding that are appropriate and proportional to the needs of Baltimore County.

The Governor has proposed a total of \$400 million for school construction. Distribution amounts will not be available until late March. Enhancement in funds for Aging Schools is being questioned. The enhancement is only about \$1.2 million, Baltimore County could get almost \$780,000 of the enhancements if adopted.

- Discourage legislation that could adversely impact the ability of the Board of Education and the Superintendent to fulfill the mission of the school system.

**(NEW) HB317 – Student Health and Fitness Act of 2007**

Requiring that public school students in kindergarten through grade 5 be provided a specified minimum level of a program of physical education each week; requiring an increasing minimum level of a program of physical education over a period of 4 school years; requiring that the program of physical education be consistent with a student's Individualized Education Plan if applicable; etc.

Recommended Board of Education position:           Oppose

\*Status:     House – Hearing on March 6, 2007 at 1:00 p.m.

**(NEW) HB1079 - Education - Collective Bargaining - Public School Labor Relations Board**

Establishing a Public School Labor Relations Board; specifying the manner of appointment, membership, duties, and responsibilities of the Board; providing for staffing of the Board; authorizing the Board to adopt and enforce certain regulations, guidelines, and policies; permitting the Board to petition a circuit court to seek enforcement of an order of the Board; and providing that a hearing and determination under the Act is a contested case.

Recommended Board of Education position:           Oppose

\*Status:     House – First Reading 02/09/07

**HB71 – Baltimore County – Board of Education – Elected Members (Cross Filed with SB82)**

Establishing a procedure for the election of specified members of the Baltimore County Board of Education; requiring the elected members of the County Board to reside in and be elected from specified districts; establishing the term of office for the elected members and for their removal under specified circumstances; providing a procedure for filling a vacancy for an elected member; providing for the election of the chair and vice chair of the County Board; providing for the compensation of the members of the County Board; etc.

Board of Education position:                      Oppose

\*Status:     House – Hearing on February 21, 2007 at 1:00 p.m.

**SB79 – Baltimore County – Board of Education – Membership**

Requiring the appointment of the members of the Baltimore County Board of Education made by the Governor to be with the advice and consent of the Senate of Maryland and requiring the composition of the membership of the Board to reflect the demographic composition of the student population in the county.

Board of Education position:    No Position

\*Status:     Senate - Hearing on February 14, 2007 at 1:00 p.m.

**SB82 – Baltimore County – Board of Education – Elected Members (Cross Filed with HB71)**

Establishing a procedure for the election of specified members of the Baltimore County Board of Education; requiring the elected members of the County Board to reside in and be elected from specified districts; establishing the term of office for the elected members and for their removal under specified circumstances; providing a procedure for filling a vacancy for an elected member; providing for the election of the chair and vice chair of the County Board; providing for the compensation of the members of the County Board; etc.

Board of Education position:    Oppose

\*Status:     Senate – Hearing on February 14, 2007 at 1:00 p.m.

**SB99 – Education – Baltimore County Board of Education – School Board Nominating Convention of Baltimore County**

Altering the appointment process for specified members of the Baltimore County Board of Education to require the Governor to select a member from a list of nominees submitted by the School Board Nominating Convention of Baltimore County; requiring the list of nominees to contain a specified number of names; and specifying that members of the County Board be residents of the County.

Board of Education position:

Support

\*Status: Senate – Hearing on February 14, 2007 at 1:00 p.m.

# HOUSE BILL 317

F1

71r1499  
CF SB 244

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By: **Delegates Cardin, Anderson, Aumann, Bronrott, Burns, Dumais, Elliott, Feldman, Frush, Heller, Holmes, Hubbard, Krysiak, Lee, Morhaim, Nathan-Pulliam, Stein, and Taylor**

Introduced and read first time: January 31, 2007

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Student Health and Fitness Act of 2007**

3 FOR the purpose of requiring that public school students in kindergarten through a  
4 certain grade be provided certain minimum levels of a program of physical  
5 education each week; requiring increasing minimum levels of a program of  
6 physical education over a certain period of time; requiring that the program of  
7 physical education for a certain category of student be consistent with a certain  
8 plan for the student; and generally relating to student health and fitness.

9 BY repealing and reenacting, with amendments,  
10 Article – Education  
11 Section 7–409  
12 Annotated Code of Maryland  
13 (2006 Replacement Volume)

14 Preamble

15 WHEREAS, Obesity leads to at least 300,000 deaths among adults in the  
16 United States each year due in part to physical inactivity and a poor diet; and

17 WHEREAS, Inadequate participation in physical activity is a significant  
18 contributor to the “epidemic of obesity” that has plagued the nation’s young people  
19 during the past 2 decades; and

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 WHEREAS, Physical activity offers young people many health benefits,  
2 including improving aerobic endurance and muscular strength, helping to control  
3 weight, building lean muscle, and reducing fat, and helping to build greater bone  
4 mass, all of which thwart the development of osteoporosis in adulthood and prevent or  
5 reduce high blood pressure; and

6 WHEREAS, A growing body of evidence suggests that providing students with  
7 more physical education and physical activity opportunities helps reduce the costs  
8 schools incur by reducing absenteeism, improving student health, and reducing staff  
9 time spent addressing academic performance; and

10 WHEREAS, A growing body of evidence also suggests that improvement in test  
11 scores and overall academic achievement can be linked to increased time in physical  
12 education; and

13 WHEREAS, The National PTA considers “Early Physical Education” a “Parent  
14 Priority” and urges its members to promote physical education in the schools; now,  
15 therefore,

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

18 **Article - Education**

19 7-409.

20 (a) [Each] **SUBJECT TO SUBSECTION (B) OF THIS SECTION, EACH** public  
21 school shall have a program of physical education that is given in a planned and  
22 sequential manner to all students, kindergarten through grade 12, to develop their  
23 good health and physical fitness and improve their motor coordination and physical  
24 skills.

25 **(B) (1) ALL STUDENTS IN KINDERGARTEN THROUGH GRADE 5 SHALL**  
26 **BE PROVIDED A PROGRAM OF PHYSICAL EDUCATION AS PROVIDED IN THIS**  
27 **SUBSECTION:**

28 **(I) BEGINNING IN THE 2008-09 SCHOOL YEAR, A MINIMUM**  
29 **OF 60 MINUTES A WEEK OF PHYSICAL EDUCATION;**

30 **(II) BEGINNING IN THE 2009-10 SCHOOL YEAR, A MINIMUM**  
31 **OF 90 MINUTES A WEEK OF PHYSICAL EDUCATION;**

1                   **(III) BEGINNING IN THE 2010–11 SCHOOL YEAR, A MINIMUM**  
2 **OF 120 MINUTES A WEEK OF PHYSICAL EDUCATION; AND**

3                   **(IV) BEGINNING IN THE 2011–12 SCHOOL YEAR, AND EACH**  
4 **SCHOOL YEAR THEREAFTER, A MINIMUM OF 150 MINUTES A WEEK OF PHYSICAL**  
5 **EDUCATION.**

6                   **(2) AS APPLICABLE, A STUDENT’S PROGRAM OF PHYSICAL**  
7 **EDUCATION SHALL BE CONSISTENT WITH THE STUDENT’S INDIVIDUALIZED**  
8 **EDUCATION PLAN (IEP).**

9                   **[(b)] (C)**     The Department shall employ a full–time director of physical  
10 education.

11                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 October 1, 2007.



# HOUSE BILL 1079

F1

71r2330

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By: **Delegates Howard, Benson, and Proctor**

Introduced and read first time: February 9, 2007

Assigned to: Appropriations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Education – Collective Bargaining – Public School Labor Relations Board**

3 FOR the purpose of establishing a Public School Labor Relations Board; specifying the  
4 manner of appointment, membership, duties, and responsibilities of the Board;  
5 providing for staffing of the Board; providing for the staggering of terms;  
6 authorizing the Board to adopt and enforce certain regulations, guidelines, and  
7 policies; permitting the Board to petition a circuit court to seek enforcement of  
8 an order of the Board; providing that a hearing and determination under this  
9 Act is a contested case; requiring the Board to decide any controversy or dispute  
10 involving a labor organization of certificated or noncertificated public school  
11 employees; providing that a certain decision of the Board is a final decision;  
12 requiring the Board to supervise the election of certain exclusive employee  
13 representatives; altering the determination of certain matters which may be  
14 negotiated by a certain designated representative; authorizing a certain party to  
15 petition the Board over certain matters; authorizing the Board to make a  
16 certain determination of impasse during certain negotiations under certain  
17 circumstances; authorizing the Board to provide certain assistance during a  
18 certain impasse; requiring that certain provisions are subject to certain other  
19 provisions concerning a fiscal relationship between certain parties; authorizing  
20 the Board to make a certain determination concerning bad faith bargaining and  
21 unfair labor practices; defining certain terms; and generally relating to the  
22 Public School Labor Relations Board and collective bargaining for certificated  
23 and noncertificated public school employees.

24 BY repealing and reenacting, with amendments,

25 Article – Education

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 2–205(e), 6–401, 6–405(f), 6–408, 6–501, 6–506(f), and 6–510  
 2 Annotated Code of Maryland  
 3 (2006 Replacement Volume)

4 BY adding to  
 5 Article – Education  
 6 Section 6–801 through 6–807 to be under the new subtitle “Subtitle 8. Public  
 7 School Labor Relations Board”  
 8 Annotated Code of Maryland  
 9 (2006 Replacement Volume)

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

12 **Article – Education**

13 2–205.

14 (e) (1) Without charge and with the advice of the Attorney General, the  
 15 State Board shall explain the true intent and meaning of the provisions of:

16 (i) This article that are within its jurisdiction; and

17 (ii) The bylaws, rules, and regulations adopted by the Board.

18 (2) [The] **EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS**  
 19 **SUBSECTION AND IN TITLE 6, SUBTITLES 4 AND 5 OF THIS ARTICLE, THE** Board  
 20 shall decide all controversies and disputes under these provisions.

21 (3) The decision of the Board is final.

22 **(4) (I) THE PUBLIC SCHOOL LABOR RELATIONS BOARD**  
 23 **SHALL DECIDE ANY CONTROVERSY OR DISPUTE ARISING UNDER TITLE 6,**  
 24 **SUBTITLE 4 OR SUBTITLE 5 OF THIS ARTICLE IN ACCORDANCE WITH THE**  
 25 **PROVISIONS OF §§ 6–401(F) AND 6–501(G) OF THIS ARTICLE.**

26 **(II) A DECISION OF THE PUBLIC SCHOOL LABOR**  
 27 **RELATIONS BOARD IS FINAL.**

28 6–401.

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

1           (b)    **“BOARD” MEANS THE PUBLIC SCHOOL LABOR RELATIONS BOARD**  
2 **ESTABLISHED UNDER SUBTITLE 8 OF THIS TITLE.**

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

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

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

8           [(c)] (D)   (1)   “Home and hospital teacher” means a teacher employed by a  
9 public school employer to provide instructional services to a public school student who  
10 is unable to function effectively in the classroom setting due to the student’s medical,  
11 physical, or emotional condition.

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

13                           (i)   A private home;

14                           (ii)   A hospital;

15                           (iii)   A therapeutic center;

16                           (iv)   A school; or

17                           (v)   Any other appropriate site.

18           [(d)] (E)   (1)   “Public school employee” means a certificated professional  
19 individual who is employed by a public school employer or an individual of equivalent  
20 status in Baltimore City, except for a county superintendent or an individual  
21 designated by the public school employer to act in a negotiating capacity as provided  
22 in § 6–408(b) of this subtitle.

23                   (2)   In Montgomery County, “public school employees” include:

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

1 (ii) Home and hospital teachers employed by the public school  
2 employer for at least 7 days before March 1 of the school fiscal year ending June 30,  
3 2000, and each year after.

4 (3) In Baltimore County, “public school employee” includes:

5 (i) A secondary school nurse, an elementary school nurse, and a  
6 special school nurse; and

7 (ii) Supervisory noncertificated employees as defined under §  
8 6–501(h) of this title.

9 (4) In Frederick County, “public school employee” includes a social  
10 worker employed by a public school employer.

11 (5) In Prince George’s County, “public school employee” includes home  
12 and hospital teachers and Junior Reserve Officer Training Corps (JROTC) instructors.

13 (6) In Charles County and Garrett County, “public school employee”  
14 includes Junior Reserve Officer Training Corps (JROTC) instructors.

15 [(e)] (F) “Public school employer” means a county board of education or the  
16 Baltimore City Board of School Commissioners.

17 6–405.

18 (f) (1) The [State] Board shall adopt rules and regulations for:

19 (i) Verifying the number of certificated employees of the public  
20 school employer or individuals of equivalent status in Baltimore City who are  
21 members in good standing of an employee organization on the date of the certification  
22 or who have signed a petition under this section; and

23 (ii) Holding elections under this section and the certification of  
24 their results.

25 (2) The [State] Board shall provide for supervision of these elections.

26 (3) The elections shall be held:

27 (i) In each school facility where public employees are assigned  
28 on a regularly scheduled school day;

1 (ii) In a manner assuring the secrecy of the ballot; and

2 (iii) On a regular working day for public school employees,  
3 between June 1 and June 15, inclusive, except in Baltimore City where the elections  
4 shall be held between November 1 and November 15 following the date on which  
5 certification of required membership enrollment is made.

6 (4) In any election held under this section, the employee organization  
7 that receives the largest number of votes cast in a unit shall be declared to be the  
8 exclusive representative of all public school employees in the unit. If the largest  
9 number of votes in the election is cast not to have exclusive representation, a  
10 representative may not be designated for the unit.

11 (5) The public school employer shall provide any assistance required  
12 in holding the elections.

13 6-408.

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

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

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

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

21 (b) (1) On request a public school employer or at least two of its  
22 designated representatives shall meet and negotiate with at least two representatives  
23 of the employee organization that is designated as the exclusive negotiating agent for  
24 the public school employees in a unit of the county on:

25 (I) **ALL MANDATORY SUBJECTS OF BARGAINING,**  
26 **INCLUDING** all matters that relate to salaries, wages, hours, and other working  
27 **conditions; AND**

28 (II) **ALL PERMISSIVE SUBJECTS OF BARGAINING,**  
29 **INCLUDING ALL OTHER MATTERS THAT ARE MUTUALLY AGREED TO BY THE**  
30 **EMPLOYER AND THE EMPLOYEE ORGANIZATION.**

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

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

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

14           **(3) ON PETITION BY EITHER PARTY TO THE BOARD, THE BOARD**  
15 **SHALL DETERMINE IF A MATTER IS A MANDATORY SUBJECT, A PERMISSIVE**  
16 **SUBJECT, OR AN ILLEGAL SUBJECT FOR BARGAINING.**

17           [(5)] (4) In Montgomery County, the exclusive negotiating agent for  
18 the public school employees in a unit and the public school employer shall meet and  
19 negotiate under this section the salaries, wages, hours, and other working conditions  
20 of all persons actually employed as substitute teachers or home and hospital teachers.

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

24           (d) (1) If, on the request of either party, the [State Superintendent]  
25 **BOARD** determines from the facts that an impasse is reached in negotiations between  
26 a public school employer and an employee organization that is designated as an  
27 exclusive negotiating agent, the assistance and advice of the [State] Board may be  
28 requested, with the consent of both parties.

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

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

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

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

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

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

10 (6) All costs of mediation shall be shared by the public school employer  
11 and the employee organization.

12 (7) [Notwithstanding any other provision of this subtitle, the public  
13 school employer shall make the final determination as to matters that have been the  
14 subject of negotiation, but this final determination] **ANY NEGOTIATED PROVISION** is  
15 subject to the other provisions of this article concerning the fiscal relationship between  
16 the public school employer and the county commissioners, county council, and Mayor  
17 and City Council of Baltimore City.

18 6-501.

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

20 (b) **“BOARD” MEANS THE PUBLIC SCHOOL LABOR RELATIONS BOARD**  
21 **ESTABLISHED UNDER SUBTITLE 8 OF THIS TITLE.**

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

26 [(c)] (D) “Employee organization” means an organization that:

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

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

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

5            [(e)] (F)        “Noncertificated employee”, in Montgomery County, means only a  
6 full-time employee.

7            [(f)] (G)        (1)    “Public school employee” means a noncertificated individual  
8 who is employed for at least 9 months a year on a full-time basis by a public school  
9 employer.

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

13            (3)    “Public school employee” does not include:

14                    (i)    Management personnel;

15                    (ii)   A confidential employee; or

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

18            [(g)] (H)        (1)    “Public school employer” means the county board in each  
19 county.

20            (2)    “Public school employer” includes the Baltimore City Board of  
21 School Commissioners.

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

25 6-506.

26            (f)    (1)    The [State] Board shall adopt rules and regulations for:

27                    (i)    Verifying the number of public school employees who are  
28 members in good standing of an employee organization on the date of the certification  
29 or who have signed a petition under this section; and



1 (ii) Holding elections under this section and the certification of  
2 their results.

3 (2) The [State] Board shall provide for supervision of these elections.

4 (3) The elections shall be held:

5 (i) In each school facility where public school employees are  
6 assigned on a regularly scheduled school day;

7 (ii) In a manner assuring the secrecy of the ballot; and

8 (iii) On a regular working day for public school employees,  
9 between June 1 and June 15, inclusive.

10 (4) In all elections held under this section, the employee organization  
11 that receives a majority of the votes cast in a unit shall be declared to be the exclusive  
12 representative of all public school employees in the unit. If a majority of the votes in  
13 the election are cast not to have exclusive representation, a representative may not be  
14 designated for the unit.

15 (5) The two choices on the ballot that receive the most votes shall be  
16 placed on a ballot for a runoff election that shall be held in the same manner as the  
17 original election if:

18 (i) More than one employee organization is on the ballot;

19 (ii) No employee organization obtains a majority of the votes;  
20 and

21 (iii) A majority of the votes is not for “not to have exclusive  
22 representation”.

23 (6) The public school employer shall provide any assistance required  
24 in conducting the elections.

25 6–510.

26 (a) (1) In this section, “negotiate” includes the duty to:

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

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

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

6 (b) (1) On request, a public school employer or at least two of its  
7 designated representatives shall meet and negotiate with at least two representatives  
8 of the employee organization that is designated as the exclusive negotiating agent for  
9 the public school employees in a unit of the county on:

10 (I) **ALL MANDATORY SUBJECTS OF BARGAINING,**  
11 **INCLUDING** all matters that relate to salaries, wages, hours, and other working  
12 **conditions; AND**

13 (II) **ALL PERMISSIVE SUBJECTS OF BARGAINING,**  
14 **INCLUDING ALL OTHER MATTERS INCLUDING DUE PROCESS FOR DISCIPLINE**  
15 **AND DISCHARGE FOR PUBLIC SCHOOL EMPLOYEES IN A UNIT OF THE COUNTY,**  
16 **THAT ARE MUTUALLY AGREED TO BY THE EMPLOYER AND THE EMPLOYEE**  
17 **ORGANIZATION.**

18 (2) [Except as provided in paragraph (3) of this subsection, a public  
19 school employer or at least two of its designated representatives may negotiate with at  
20 least two representatives of the employee organization that is designated as the  
21 exclusive negotiating agent for the public school employees in a unit of the county on  
22 other matters, including due process for discipline and discharge, that are mutually  
23 agreed to by the employer and the employee organization.

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

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

1           **(3) ON PETITION BY EITHER PARTY TO THE BOARD, THE BOARD**  
2 **SHALL DETERMINE IF A MATTER IS A MANDATORY SUBJECT, A PERMISSIVE**  
3 **SUBJECT, OR AN ILLEGAL SUBJECT FOR BARGAINING.**

4           **(4) ON PETITION BY EITHER PARTY, THE BOARD SHALL**  
5 **DETERMINE ISSUES CONCERNING BAD FAITH BARGAINING AND UNFAIR LABOR**  
6 **PRACTICES.**

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

10           (d) (1) If, on the request of either party, the [State Superintendent]  
11 **BOARD** determines from the facts that an impasse is reached in negotiations between  
12 a public school employer and an employee organization that is designated as an  
13 exclusive negotiating agent, the assistance and advice of the [State] Board may be  
14 requested, with the consent of both parties.

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

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

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

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

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

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

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

29           (7) [Notwithstanding any other provision of this subtitle, the public  
30 school employer shall make the final determination as to matters which have been the

1 subject of negotiation, but this final determination] **ANY NEGOTIATED PROVISION** is  
2 subject to the other provisions of this article concerning the fiscal relationship between  
3 the public school employer and the county commissioners and county council.

4 **SUBTITLE 8. PUBLIC SCHOOL LABOR RELATIONS BOARD.**

5 **6-801.**

6 **IN THIS SUBTITLE, "BOARD" MEANS THE PUBLIC SCHOOL LABOR**  
7 **RELATIONS BOARD ESTABLISHED UNDER §6-802 OF THIS SUBTITLE.**

8 **6-802.**

9 **THERE IS A PUBLIC SCHOOL LABOR RELATIONS BOARD ESTABLISHED AS**  
10 **AN INDEPENDENT UNIT OF STATE GOVERNMENT.**

11 **6-803.**

12 **(A) THE BOARD SHALL CONSIST OF THE FOLLOWING FIVE MEMBERS:**

13 **(1) ONE MEMBER APPOINTED BY THE GOVERNOR, WITH THE**  
14 **ADVICE AND CONSENT OF THE SENATE, REPRESENTING THE PUBLIC AND WHO**  
15 **HAS EXPERIENCE IN LABOR RELATIONS:**

16 **(I) WHO IS NOT AN OFFICER OR EMPLOYEE OF A BOARD OF**  
17 **EDUCATION OR EMPLOYEE ORGANIZATION REPRESENTING PUBLIC SCHOOL**  
18 **SYSTEM EMPLOYEES; AND**

19 **(II) WHO IS NOT AN ELECTED OFFICIAL OF THE STATE, A**  
20 **COUNTY OR AN EMPLOYEE ORGANIZATION REPRESENTING PUBLIC SCHOOL**  
21 **EMPLOYEES;**

22 **(2) TWO MEMBERS CHOSEN FROM A LIST OF CANDIDATES**  
23 **SUBMITTED BY EACH DESIGNATED EXCLUSIVE REPRESENTATIVE**  
24 **ORGANIZATION REPRESENTING CERTIFICATED AND NONCERTIFICATED**  
25 **EMPLOYEES, UNDER SUBTITLES 4 AND 5 OF THIS TITLE, APPOINTED BY THE**  
26 **GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE:**

27 **(I) WHO ARE NOT EMPLOYEES OF THE STATE OR A PUBLIC**  
28 **SCHOOL EMPLOYEE ORGANIZATION; AND**

1 (II) WHO ARE KNOWN FOR OBJECTIVE AND INDEPENDENT  
2 JUDGMENT; AND

3 (3) TWO MEMBERS OF THE EDUCATION OR BUSINESS  
4 COMMUNITY, APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT  
5 OF THE SENATE:

6 (I) WHO ARE NOT OFFICERS OR EMPLOYEES OF THE STATE  
7 OR COUNTY OR STATE BOARDS OF EDUCATION AND ARE NOT OFFICERS OR  
8 EMPLOYEES OF EMPLOYEE ORGANIZATIONS REPRESENTING EMPLOYEES OF  
9 PUBLIC SCHOOL SYSTEMS IN MARYLAND; AND

10 (II) WHO ARE KNOWN FOR OBJECTIVE AND INDEPENDENT  
11 JUDGMENT.

12 (B) BEFORE TAKING OFFICE EACH MEMBER SHALL TAKE THE OATH  
13 REQUIRED BY ARTICLE I, SECTION 9 OF THE MARYLAND CONSTITUTION.

14 (C) THE PUBLIC SCHOOL LABOR RELATIONS BOARD SHALL ELECT A  
15 CHAIR FROM AMONG ITS MEMBERS.

16 (D) (1) THE TERM OF A MEMBER IS 5 YEARS.

17 (2) THE TERMS OF MEMBERS WILL BE STAGGERED AS REQUIRED  
18 BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON JULY 1, 2007.

19 (3) AT THE END OF A TERM A MEMBER CONTINUES TO SERVE  
20 UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

21 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN  
22 SERVES ONLY FOR THE REMAINDER OF THAT TERM.

23 (E) THE GOVERNOR MAY REMOVE A MEMBER ONLY FOR  
24 INCOMPETENCE OR MISCONDUCT.

25 **6-804.**

26 **A MEMBER OF THE BOARD SHALL BE ENTITLED TO:**

1           (1)    **A SALARY PROVIDED IN THE STATE BUDGET; AND**

2           (2)    **REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD**  
3 **STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.**

4 **6-805.**

5           (A)    **THE BOARD SHALL APPOINT AN EXECUTIVE DIRECTOR OF THE**  
6 **BOARD.**

7           (B)    **THE EXECUTIVE DIRECTOR:**

8               (1)    **IS RESPONSIBLE TO AND SERVES AT THE PLEASURE OF THE**  
9 **BOARD; AND**

10              (2)    **IS ENTITLED TO SALARY PROVIDED IN THE STATE BUDGET.**

11           (C)    **THE EXECUTIVE DIRECTOR MAY HIRE ANY STAFF NECESSARY TO**  
12 **CARRY OUT THE PROVISIONS OF THIS SUBTITLE.**

13           (D)    **THE EXECUTIVE DIRECTOR SHALL PERFORM THE DUTIES THAT THE**  
14 **BOARD ASSIGNS, INCLUDING OPERATING THE OFFICE OF THE BOARD AND**  
15 **KEEPING THE OFFICIAL RECORDS.**

16 **6-806.**

17           (A)    **THE BOARD SHALL ADMINISTER AND ENFORCE THE LABOR**  
18 **RELATIONS PROVISIONS OF SUBTITLES 4 AND 5 OF THIS TITLE.**

19           (B)    **THE BOARD MAY:**

20               (1)    **ADOPT AND ENFORCE REGULATIONS, GUIDELINES, AND**  
21 **POLICIES TO CARRY OUT ITS RIGHTS AND RESPONSIBILITIES UNDER THIS**  
22 **TITLE; AND**

23               (2)    **MAKE RECOMMENDATIONS FOR LEGISLATIVE ACTION**  
24 **REGARDING THE OPERATION OF THIS TITLE.**

1 **6-807.**

2 (A) IN DECIDING MATTERS COVERED UNDER THE PROVISIONS OF  
3 SUBTITLES 4 AND 5 OF THIS TITLE, THE BOARD:

4 (1) MAY:

5 (I) CONDUCT HEARINGS;

6 (II) SUBPOENA WITNESSES AND DOCUMENTS;

7 (III) ADMINISTER OATHS;

8 (IV) TAKE THE TESTIMONY OR DEPOSITION OF A PERSON  
9 UNDER OATH; AND

10 (V) CONDUCT INVESTIGATIONS; AND

11 (2) SHALL DECIDE CONTROVERSIES AND DISPUTES.

12 (B) (1) IF A PERSON FAILS TO COMPLY WITH AN ORDER ISSUED BY  
13 THE BOARD, A MEMBER OF THE BOARD MAY PETITION THE CIRCUIT COURT TO  
14 ORDER THE PERSON TO COMPLY WITH THE BOARD'S ORDER.

15 (2) THE BOARD MAY NOT BE REQUIRED TO POST BOND IN AN  
16 ACTION UNDER PARAGRAPH (1) OF THIS SUBSECTION.

17 (C) EACH HEARING AND DETERMINATION OF AN APPEAL OR  
18 COMPLAINT BY THE BOARD IS A CONTESTED CASE, SUBJECT TO THE  
19 PROVISIONS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

20 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the  
21 members of the Public School Labor Relations Board shall expire as follows:

22 (a) one member in 2009;

23 (b) two members in 2010; and

24 (c) two members in 2011.

1           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2   July 1, 2007.