DATE: February 26, 2008
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
That the Board of Education consider taking positions on Key School Legislation.

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UPDATES LEGISLATION

(*Status as of 2/20/08 – updated information in **RED**)

HB15 – Task Force on Classroom Indoor Air Quality Standards

Establishing a Task Force on Classroom Indoor Air Quality Standards; establishing the membership and staffing of the Task Force; providing for the designation of the chair of the Task Force; requiring the Task Force to evaluate and make recommendations regarding specified issues; etc.

Board of Education position: Oppose

*Status: House – Hearing on 2/5/08 at 11:00 a.m.

HB21 – Education – Compulsory Attendance – Age of Withdrawal

Altering the age at which a child may withdraw from required schooling to 18 years old; requiring specified individuals with the legal custody or care and control of children between the ages of 5 and 18 years old to see that the children attend school or receive specified instruction; and providing for a delayed effective date.

Board of Education position: Oppose

Comments: This legislation has a $55 million impact to the State

*Status: House – Hearing on 03/11/08 at 1:00 p.m.

HB23 – Maryland Green Buildings Standards of 2008

Requiring specified buildings to be high performance buildings under specified circumstances; requiring the Department of Budget and Management to conduct a specified analysis of the costs and benefits of requiring specified buildings to be high performance buildings; requiring the Department to waive specified high performance building requirements under specified circumstances; etc.

Board of Education position: Oppose

*Status: House – Withdrawn on 02/19/08
**HB49 – Education – Maryland High School Assessment Test Results**

Requiring the State Board of Education to report to each county board on or before July 1 each year on the performance of each student in the local school system on the Maryland High School Assessment.

Board of Education position: Oppose

*Status: House – Hearing on 03/05/08 at 1:00 p.m.

**HB367 – Department of Labor, Licensing, and Regulation - Consolidation of Workforce Development Functions - Transfer of Adult Education and Literacy Services and Education Programs for Correctional Facilities**

(Cross-Filed with SB203)

Consolidating workforce development functions by transferring adult education and literacy services and education and training programs for correctional facilities that are administered by the State Department of Education to the Department of Labor, Licensing, and Regulation; establishing the Workforce Creation and Adult Education Transition Council; etc.

Board of Education position: Oppose

*Status: House – Hearing on 02/20/08 at 11:00 a.m.

**SB77 - Education – Children in Informational Kinship Care Relationship**

(Cross-Filed with HB169)

Requiring a superintendent of schools of a county to allow a child to attend a public school in a school attendance area other than the school in the school attendance area where the child is domiciled with the child’s parent or legal guardian if the child lives with a relative in the school attendance area in an informal kinship care relationship due to a serious family hardship; etc.

Board of Education position: Support

*Status: Senate – 3rd Reading Passed on 02/08/08
House – 1st Reading on 02/11/08

**NEW SB96 – Education – Truancy Rates – Positive Behavioral Interventions and Support Programs and Behavior Modification Programs**

(Cross-Filed with HB285)
Requiring a county board of education to require a school that has a truancy rate that exceeds specified standards to implement a positive behavioral interventions and support program or an alternative, research-based, positive, and effective behavior modification program in collaboration with the State Department of Education; etc.

Recommended Board of Education position: Oppose

Status: Senate – 3rd Reading Passed on 02/18/08
House – 1st Reading on 02/19/08

Comments: The flawed premise of this bill is that it would mandate the use of PBIS on truancy rates, not suspension rates which is already governed by statute.


(Cross-Filed with HB155)

Authorizing the creation of a State Debt in the amount of $872,099,000, the proceeds to be used, subject to specified restrictions and reporting requirements, for the acquisition, building, construction, demolition, planning, renovation, conversion, replacement, and capital equipping of specified State projects, and for grants to specified subdivisions and other organizations for specified purposes, subject to the requirement that specified grantees provide and expend specified matching funds; etc.

Board of Education position: Support

Comments: This legislation has a total of $333 million for public school construction

*Status: Senate – 1st Reading – 01/18/08

NEW SB850 – Education – Collective Bargaining - Public School Labor Relations Board

Establishing a Public School Labor Relations Board; providing for the appointment, membership, duties, responsibilities, and staff of the Board; authorizing the Board to adopt and enforce regulations, guidelines, and policies, as specified; permitting the Board to petition a circuit court to seek enforcement of an order of the Board; providing that a hearing and determination under the Act is a contested case; specifying requirements and procedures for the use of mediation, fact-finding, and arbitration in dispute resolution; etc.

Recommended Board of Education position: Oppose

Status: Senate – 1st Reading on 02/11/08
Comments: This bill would move the power to decide on matters of bargaining (whether items are bargainable or not, whether a subject is legal or illegal to the bargaining process, whether actions constitute unfair labor practices) from the State Board of Education to a newly-created Public School Labor Relations Board.
SENATE BILL 96

By: Senators Pugh, Conway, Currie, Della, Forehand, Gladden, Klausmeier, Madaleno, McFadden, Peters, and Stone
Introduced and read first time: January 16, 2008
Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

AN ACT concerning

Education – Truancy Rates – Positive Behavioral Interventions and Support Programs and Behavior Modification Programs

FOR the purpose of requiring a county board of education to require certain schools with certain truancy rates to implement a positive behavioral interventions and support program or certain behavior modification programs in collaboration with the State Department of Education under certain circumstances; requiring certain schools to expand certain programs under certain circumstances; and generally relating to the requirement that certain schools implement certain programs relating to truancy rates.

BY repealing and reenacting, without amendments,
Article – Education
Section 1–101(a) and (d)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Education
Section 7–304.1
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Education

1–101.
(a) In this article, unless the context requires otherwise, the following words have the meanings indicated.

(d) “County board” means the board of education of a county and includes the Baltimore City Board of School Commissioners.

7–304.1.

(a) In this section, “Positive Behavioral Interventions and Support Program” means the research–based, systems approach method adopted by the State Board to build capacity among school staff to adopt and sustain the use of positive, effective practices to create learning environments where teachers can teach and students can learn.

(b) (1) [Each] EACH county board of education and the Board of School Commissioners of Baltimore City shall require an elementary school that has a suspension rate that exceeds the standard specified in paragraph (2) of this subsection to implement:

(i) A positive behavioral interventions and support program; or

(ii) An alternative behavioral modification program in collaboration with the Department.

(2) An elementary school is subject to this subsection if it has a suspension rate that exceeds:

(i) 18 percent of its enrollment for the 2005–2006 school year;

(ii) 16 percent of its enrollment for the 2006–2007 school year;

(iii) 14 percent of its enrollment for the 2007–2008 school year;

(iv) 12 percent of its enrollment for the 2008–2009 school year;

and

(v) 10 percent of its enrollment for the 2009–2010 school year and each school year thereafter.

(3) AN ELEMENTARY SCHOOL THAT HAS ALREADY IMPLEMENTED A POSITIVE BEHAVIORAL INTERVENTIONS AND SUPPORT PROGRAM OR AN ALTERNATIVE, RESEARCH–BASED, POSITIVE, AND EFFECTIVE BEHAVIOR MODIFICATION PROGRAM UNDER SUBSECTION (C) OF THIS SECTION SHALL EXPAND ITS EXISTING PROGRAM IF IT HAS A SUSPENSION RATE THAT EXCEEDS THE STANDARD SPECIFIED IN PARAGRAPH (2) OF THIS SUBSECTION.
(c) (1) Subject to paragraph (3) of this subsection, each county board shall require a school that has a truancy rate that exceeds the standard specified in paragraph (2) of this subsection to implement:

(I) A positive behavioral interventions and support program; or

(II) An alternative, research-based, positive, and effective behavior modification program in collaboration with the department.

(2) A school is subject to this subsection if it has a truancy rate that exceeds:

(I) 8 percent of its enrollment for the 2008–2009 school year;

(II) 6 percent of its enrollment for the 2009–2010 school year;

(III) 4 percent of its enrollment for the 2010–2011 school year;

(IV) 2 percent of its enrollment for the 2011–2012 school year; and

(V) 1 percent of its enrollment for the 2012–2013 school year and each school year thereafter.

(3) A school that has already implemented a positive behavioral interventions and support program or an alternative behavior modification program under subsection (B) of this section shall expand its program if it has a truancy rate that exceeds the standard specified in paragraph (2) of this subsection.

(D) The State Board shall adopt regulations to implement the provisions of this section.

SECTION 2. And be it further enacted, That this Act shall take effect July 1, 2008.
AMENDMENT TO SENATE BILL 96
(First Reading File Bill)

On page 1, in line 8, after “circumstances;” insert “clarifying language;”.

On page 2, in line 16, strike “behavioral” and substitute “BEHAVIOR”; strike beginning with “AN” in line 28 down through “EFFECTIVE” in line 29 and substitute “A”; and in line 30, strike “UNDER SUBSECTION (C) OF THIS SECTION”.

On page 3, in line 23, strike “AN ALTERNATIVE” and substitute “A”; in line 24, strike “BEHAVIORAL” and substitute “BEHAVIOR”; and strike beginning with “UNDER” in line 24 down through “SECTION” in line 25.
SENATE BILL 850

By: Senators Pugh, Brochin, Della, Dyson, Exum, King, Klausmeier, Lenett, Madaleno, McFadden, Peters, Pinsky, Raskin, Robey, Rosapepe, and Stone

Introduced and read first time: February 11, 2008
Assigned to: Rules

A BILL ENTITLED

AN ACT concerning

Education – Collective Bargaining – Public School Labor Relations Board

FOR the purpose of 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; providing for the staggering of terms; 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; providing that a hearing and determination under this Act is a contested case; requiring the Board to decide any controversy or dispute involving a labor organization of certificated or noncertificated public school employees; providing that a certain decision of the Board is a final decision; requiring the Board to supervise the election of certain exclusive employee representatives; altering the determination of certain matters which may be negotiated by a certain designated representative; authorizing a certain party to petition the Board over certain matters; authorizing the Board to make a certain determination of impasse during certain negotiations under certain circumstances; authorizing the Board to provide certain assistance during a certain impasse; requiring that certain provisions are subject to certain other provisions concerning a fiscal relationship between certain parties; authorizing the Board to make a certain determination concerning bad faith bargaining and unfair labor practices; defining certain terms; altering provisions relating to the negotiation of certain matters by a public school employer; specifying certain requirements and procedures relating to the use of mediation, fact-finding, and arbitration by certain parties in certain matters subject to dispute resolution; and generally relating to the Public School Labor Relations Board and collective bargaining for certificated and noncertificated public school employees.

BY repealing and reenacting, with amendments,

Article – Education

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
SENATE BILL 850

Section 2–205(e), 6–401, 6–405(f), 6–408, 6–501, 6–506(f), and 6–510
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – Education
Section 6–801 through 6–807 to be under the new subtitle “Subtitle 8. Public
School Labor Relations Board”
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Education

2–205.

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

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

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

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

(3) The decision of the Board is final.

(4) (I) THE PUBLIC SCHOOL LABOR RELATIONS BOARD
ESTABLISHED UNDER TITLE 6, SUBTITLE 8 OF THIS ARTICLE SHALL DECIDE
ANY CONTROVERSY OR DISPUTE ARISING UNDER TITLE 6, SUBTITLE 4 OR
SUBTITLE 5 OF THIS ARTICLE IN ACCORDANCE WITH THE PROVISIONS OF §§
6–401(F) AND 6–501(G) OF THIS ARTICLE.

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

6–401.

(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:

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.

[(c) (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.

[(d) (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(b) of this subtitle.

2. In Montgomery County, “public school employees” include:

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

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

3. 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.

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

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

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

(7) In Carroll County, “public school employee” includes supervisory noncertificated employees as defined under § 6–501(h) of this title.

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

6–405.

(f) (1) The [State] 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 [State] 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 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.

6–408.

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

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

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

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

(b) (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:

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

(II) ALL PERMISSIVE SUBJECTS OF BARGAINING THAT ARE
MUTUALLY AGREED TO BY THE EMPLOYER AND THE EMPLOYEE ORGANIZATION.

(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 (d) of this section.]
(3) On petition by either party to the Board, the Board shall determine if a matter is a mandatory subject, a permissive subject, or an illegal subject for bargaining.

(4) On petition by either party, the Board shall determine issues concerning bad faith bargaining and unfair labor practices.

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

c) 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.

d) (1) (I) [If, on the request of either party, the State Superintendent 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 assistance and advice of the State Board may be requested, with the consent of both parties] THE PARTIES MAY MUTUALLY AGREE TO COMMENCE MEDIATION AFTER A REASONABLE PERIOD FOLLOWING THE START OF NEGOTIATIONS.

(II) 1. IF NO COLLECTIVE BARGAINING AGREEMENT IS FINALIZED AFTER 30 DAYS OF NEGOTIATIONS OR 45 DAYS BEFORE THE COUNTY BOARD’S BUDGET SUBMISSION TO ITS COUNTY GOVERNING BODY, THE PARTIES SHALL NOTIFY THE BOARD.

2. ON RECEIPT OF THE NOTICE REQUIRED UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE BOARD SHALL INITIATE MEDIATION.

(III) ON REQUEST OF BOTH PARTIES, THE BOARD MAY DETERMINE TO DELAY MEDIATION AND PERMIT THE PARTIES TO EXTEND NEGOTIATIONS.

(IV) UNLESS BOTH PARTIES MUTUALLY AGREE TO EXTEND THE MEDIATION PERIOD, THE PARTIES SHALL ENGAGE IN MEDIATION FOR A PERIOD NOT TO EXCEED 2 DAYS.
(V) IF NO COLLECTIVE BARGAINING AGREEMENT IS FINALIZED DURING MEDIATION, ONE OR BOTH PARTIES SHALL NOTIFY THE BOARD THAT THE PARTIES ARE MOVING TO FACT-FINDING.

(VI) 1. THE MEDIATOR SHALL BE SELECTED FROM A LIST PROVIDED BY THE BOARD TO THE PARTIES.

2. IF THE PARTIES CANNOT AGREE ON A MEDIATOR FROM THE LIST, THE BOARD SHALL ASSIGN A MEDIATOR.

3. IF THE PARTIES HAVE A PROVISION IN THEIR COLLECTIVE BARGAINING CONTRACT THAT INCLUDES A METHOD FOR SELECTION OF A MEDIATOR, THOSE PROVISIONS SHALL PREVAIL.

4. COSTS FOR MEDIATION SHALL BE SPLIT BETWEEN THE PARTIES.

(2) (I) IF NO AGREEMENT IS REACHED DURING MEDIATION, THE PARTIES SHALL PROCEED TO FACT-FINDING BEFORE THE SAME NEUTRAL THIRD PARTY WHO SERVES AS MEDIATOR, UNLESS BOTH PARTIES MUTUALLY AGREE TO REQUEST THAT THE BOARD ASSIGN A NEW PERSON TO SERVE AS FACT FINDER.

(II) FACT-FINDING MAY NOT BE EXTENDED BEYOND 5 BUSINESS DAYS AFTER THE PARTIES HAVE PRESENTED THEIR POSITIONS TO THE FACT FINDER.

(III) 1. THE FACT FINDER SHALL HAVE THE AUTHORITY TO TAKE THE STEPS NECESSARY TO RESOLVE THE DISPUTE.

2. IF THE DISPUTE IS NOT RESOLVED, THE FACT FINDER SHALL ISSUE A WRITTEN SETTLEMENT RECOMMENDATION AFTER GIVING DUE REGARD TO ANY WRITTEN STATEMENT AND TESTIMONY RECEIVED FROM THE PARTIES.

3. THE FACT FINDER SHALL SEND THE WRITTEN RECOMMENDATIONS TO THE PARTIES NO LATER THAN 21 CALENDAR DAYS FOLLOWING THE CONCLUSION OF FACT-FINDING. IF NO RESOLUTION IS REACHED WITHIN 5 DAYS AFTER THE FINDINGS AND RECOMMENDATIONS ARE SUBMITTED TO THE PARTIES, THE FACT FINDER’S REPORT SHALL BE MADE PUBLIC.

4. THE COSTS OF FACT-FINDING SHALL BE SPLIT BETWEEN THE PARTIES.
(3) (I) 1. Following receipt of the fact finder's report, if no resolution is reached within 5 days, either party may request final and binding arbitration.

2. A. Arbitration is mandatory and shall proceed when the parties select an arbitrator by alternatingly striking names from a list of seven arbitrators provided by the American Arbitration Association.

B. If the parties have an alternative method in their collective bargaining contract for the selection of an arbitrator, those provisions shall prevail.

(ii) 1. The final offer method shall be used in which both parties shall submit their final best offer in writing to the arbitrator.

2. Following a hearing of the parties' case, the arbitrator shall select one position on each issue as the binding award.

(iii) 1. Following the selections by the arbitrator in paragraph (3) of this subsection, arbitration shall proceed before the neutral third party. Costs of arbitration shall be split between the parties.

2. During this phase, the arbitrator is limited to considering unresolved issues, including issues not agreed to in writing by the parties before the start of arbitration. On conclusion, the arbitrator shall issue a written decision which shall be final and binding on the parties.

3. Arbitration of a negotiated agreement shall be between the public school employee organization designated as the exclusive representative and the county board.

4. An arbitration award issued pursuant to this section is subject to provisions of this article governing the fiscal relationship between the public school employer and the governing body for that county.

[(2) If consent is not given and at the request of either party, a panel shall be named to aid in resolving the differences.]
The panel shall contain three individuals chosen as follows:

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

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

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

A copy of the report shall be sent to the representatives of the public school employer and the employee organization.

All costs of mediation shall be shared by the public school employer and the employee organization.

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

(E) ANY NEGOTIATED PROVISION UNDER THIS SECTION 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.

(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.

[(c)] (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.
(d) “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.

(e) “Noncertificated employee”, in Montgomery County, means only a full-time employee.

(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 § 6–510(b) of this subtitle.

(g) (1) “Public school employer” means the county board in each county.

(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.

6–506.

(f) (1) The [State] 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 [State] Board shall provide for supervision of these elections.
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.

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.

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”.

The public school employer shall provide any assistance required in conducting the elections.

In this section, “negotiate” includes the duty to:

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

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

The agreements may provide for binding arbitration of the grievances arising under the agreement that the parties have agreed to be subject to arbitration.

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:

(I) **ALL MANDATORY SUBJECTS OF BARGAINING,**
including all matters that relate to salaries, wages, hours, and other working
conditions, **INCLUDING DISCIPLINE AND DISCHARGE FOR JUST CAUSE; AND**

(II) **ALL PERMISSIVE SUBJECTS OF BARGAINING THAT ARE**
mutually agreed to by the employer and the employee organization.

(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[, including due process for discipline and discharge,] 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 (d) of this section.]

(3) **ON PETITION BY EITHER PARTY TO THE BOARD, THE BOARD**
shall determine if a matter is a mandatory subject, a permissive
subject, or an illegal subject for bargaining.

(4) **ON PETITION BY EITHER PARTY, THE BOARD SHALL**
determine issues concerning bad faith bargaining and unfair labor
practices.

(c) 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.

(d) (1) (I) **THE PARTIES MAY MUTUALLY AGREE TO COMMENCE**
mediation after a reasonable period following the start of
negotiations.

(II) 1. **IF NO COLLECTIVE BARGAINING AGREEMENT IS**
finalized after 30 days of negotiations or 45 days prior to the
COUNTY BOARD’S BUDGET SUBMISSION TO THE COUNTY GOVERNING BODY, THE PARTIES SHALL NOTIFY THE BOARD.

2. ON RECEIPT OF THE NOTICE REQUIRED UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE BOARD SHALL INITIATE MEDIATION.

(iii) On request of both parties, the Board may determine to delay mediation and permit the parties to extend negotiations.

(iv) Unless the parties mutually agree to extend the mediation period, the parties shall engage in mediation for a period not to exceed 2 days.

(v) If no collective bargaining agreement is finalized during mediation, one or both parties shall notify the Board that the parties are moving to fact-finding.

(vi) 1. The mediator shall be selected from a list provided by the Board to the parties.

2. If the parties cannot agree on a mediator from the list, the Board shall assign a mediator.

3. If the parties have a provision in their collective bargaining contract agreeing to use the American Arbitration Association or the Federal Conciliation and Mediation Service for the selection of a mediator, those provisions shall prevail.

4. Costs for mediation shall be split between the parties.

(2) (i) Unless both parties agree to request a new person to be assigned by the Board to serve as fact finder, if no agreement is reached during mediation, the parties shall proceed to fact-finding before the same neutral third party serving as mediator.

(ii) Fact-finding may not extend beyond 5 business days after the parties have presented their positions to the fact finder.
(III) 1. A. The fact finder shall have the authority to take steps as necessary to resolve the dispute.

   B. If the dispute is not resolved, the fact finder shall issue a written settlement recommendation after giving due regard to any written statement and testimony received from the parties.

2. The fact finder’s written recommendation shall be sent to the parties no later than 21 calendar days following the conclusion of fact-finding.

3. If no resolution is reached within 5 days after the findings and recommendations are submitted to the parties, the fact finder’s report shall be made public.

4. The costs of fact-finding shall be split between the parties.

(3) (I) 1. Following receipt of the fact finder’s report, if no resolution is reached within 5 days either party may request final and binding arbitration.

   2. A. Arbitration is mandatory and shall proceed when the parties select an arbitrator by alternately striking names from a list of seven arbitrators provided by the American Arbitration Association.

   B. If the parties have a method in their collective bargaining contract for selection of an arbitrator, those provisions shall prevail.

   (II) 1. The final offer method shall be used for arbitration.

   2. Both parties shall submit their final best offer to the arbitrator in writing and, following a hearing of the parties’ cases, the arbitrator shall select one position on each issue as the binding award.

   3. Costs of arbitration shall be split between the parties.
(III) The arbitrator is limited to considering the unresolved issues that were not agreed to in writing by the parties before the start of arbitration.

(IV) The arbitrator shall issue a written decision which shall be final and binding on the parties.

(V) Arbitration of a negotiated agreement shall be between the public school employee organization designated as the exclusive representative and the county board.

(VI) An arbitration award issued in accordance with this section is subject to the other provisions of this article governing the fiscal relationship between the public school employer and the governing body of the county.

(1) If, on the request of either party, the State Superintendent 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 assistance and advice of the State Board may be requested, with the consent of both parties.

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

(3) The panel shall contain three individuals chosen as follows:
   (i) One member is to be named by each party within 3 days; and
   (ii) The third member is to be chosen by the other two members within 10 days after the request.

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

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

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

(7) Notwithstanding any other provision of this subtitle, the public school employer shall make the final determination as to matters which have been the subject of negotiation, but this final determination]
(E) ANY NEGOTIATED PROVISION 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.

SUBTITLE 8. PUBLIC SCHOOL LABOR RELATIONS BOARD.

6–801.

IN THIS SUBTITLE, “BOARD” MEANS THE PUBLIC SCHOOL LABOR RELATIONS BOARD ESTABLISHED UNDER § 6–802 OF THIS SUBTITLE.

6–802.

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

6–803.

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

(1) ONE MEMBER APPOINTED BY THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE SENATE, REPRESENTING THE PUBLIC AND WHO:

   (I) HAS EXPERIENCE IN LABOR RELATIONS;

   (II) IS NOT AN OFFICER OR EMPLOYEE OF A BOARD OF EDUCATION OR EMPLOYEE ORGANIZATION REPRESENTING PUBLIC SCHOOL SYSTEM EMPLOYEES; AND

   (III) IS NOT AN ELECTED OFFICIAL OF THE STATE OR A COUNTY;

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

   (I) ARE NOT OFFICERS OR EMPLOYEES OF THE STATE, A COUNTY, A COUNTY BOARD, OR A PUBLIC SCHOOL EMPLOYEE ORGANIZATION; AND
(II) ARE KNOWN FOR OBJECTIVE AND INDEPENDENT JUDGMENT; AND

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

(I) ARE NOT OFFICERS OR EMPLOYEES OF THE STATE OR A COUNTY, THE STATE BOARD OR A LOCAL BOARD, OR AN EMPLOYEE ORGANIZATION REPRESENTING EMPLOYEES OF PUBLIC SCHOOL SYSTEMS IN THE STATE; AND

(II) ARE KNOWN FOR OBJECTIVE AND INDEPENDENT JUDGMENT.

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

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

(D) (1) THE TERM OF A MEMBER IS 6 YEARS.

(2) THE TERMS OF MEMBERS WILL BE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 2008.

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

(II) A MEMBER IS ELIGIBLE FOR REAPPOINTMENT FOR A SECOND TERM.

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

(II) A MEMBER APPOINTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS ELIGIBLE FOR APPOINTMENT BY THE GOVERNOR TO SERVE FOR A SECOND TERM.

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

6–804.
(A) (1) A majority of the voting members shall constitute a quorum for:

(i) the transaction of any business; or

(ii) the exercise of any power or the performance of any duty authorized or imposed by law.

(2) The Board may not take any formal action without the approval of a majority of the voting members of the Board.

(B) The Board shall set the times and places of its meetings.

(C) A member of the Board shall be entitled to:

(1) a salary provided in the State budget; and

(2) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

6–805.

(A) (1) Jointly with the State Labor Relations Board and the State Higher Education Labor Relations Board under § 3–2A–04 of the State Personnel and Pensions Article, the Board shall appoint an executive director to act for the labor relations boards and the Board.

(2) The executive director:

(i) is responsible to and serves at the pleasure of the labor relations boards and the Board; and

(ii) is entitled to salary as provided in the State budget.

(B) The executive director shall perform the duties that the Board assigns, including:

(1) operating the office for the labor relations boards and the Board; and

(2) keeping the official records of the labor relations boards and the Board.
(C) (1) The Board shall employ the services of independent legal counsel.

(2) The Executive Director may hire any other staff necessary to carry out the provisions of this subtitle.

(D) (1) With the approval of the Board, the Executive Director may employ professional consultants.

(2) A professional consultant serves at the pleasure of the Executive Director.

6–806.

(A) The Board shall administer and enforce the labor relations provisions of Subtitles 4 and 5 of this title.

(B) The Board may:

(1) Adopt and enforce regulations, guidelines, and policies to carry out its rights and responsibilities under this title; and

(2) Make recommendations for legislative action regarding the operation of this title.

6–807.

(A) In deciding matters covered under the provisions of Subtitles 4 and 5 of this title, the Board:

(1) May:

(I) Conduct hearings;

(II) Subpoena witnesses and documents;

(III) Administer oaths;

(IV) Take the testimony or deposition of a person under oath; and

(V) Conduct investigations; and
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(2) SHALL DECIDE CONTROVERSIES AND DISPUTES.

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

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

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

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

(a) one member in 2011;

(b) two members in 2012; and

(c) two members in 2013.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.