

Chapter 22

(House Bill 811)

AN ACT concerning

Education – Collective Bargaining – Exclusive Representative’s Access to New Employee Processing

FOR the purpose of requiring public school employers to provide an exclusive representative with access to a certain new employee processing; requiring the public school employer to provide a certain notice to the exclusive representative within a certain period of time; authorizing a certain exception under certain circumstances; requiring the structure, time, and manner of certain access to be determined through certain negotiations; authorizing certain parties to request that the Public School Labor Relations Board declare a certain impasse under certain circumstances; requiring a mediator or the Board to consider certain factors under certain circumstances during a certain impasse proceeding; providing for the reopening of certain collective bargaining agreements for certain purposes under certain circumstances; authorizing certain parties to negotiate a separate agreement under certain circumstances; providing that certain provisions of this Act do not prohibit certain activities; providing that certain provisions of this Act do not abrogate certain existing collective bargaining agreements; requiring the public school employer to provide the exclusive representative with certain employee information within a certain number of days under certain circumstances; authorizing the public school employer to negotiate with the exclusive representative on certain topics; providing for a certain exception; requiring a certain custodian to allow inspection by a certain employee organization of a certain personnel record that contains certain information; defining certain terms; and generally relating to access of an exclusive representative to a public school employer’s new employee processing.

BY repealing and reenacting, with amendments,

Article – Education

Section 6–401, 6–408(c)(1), 6–501, and 6–510(c)(1)

Annotated Code of Maryland

(2014 Replacement Volume and 2017 Supplement)

BY adding to

Article – Education

Section 6–407.1, 6–407.2, 6–509.1, and 6–509.2

Annotated Code of Maryland

(2014 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,

Article – General Provisions

Section 4–311

Annotated Code of Maryland

(2014 Volume and 2017 Supplement)

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

Article – Education

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.

(b–1) “Day” means a calendar day unless otherwise indicated.

(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.

(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–1) “NEW EMPLOYEE PROCESSING” MEANS THE PROCESS FOR A NEWLY HIRED PUBLIC SCHOOL EMPLOYEE, WHETHER IN PERSON, ONLINE, OR THROUGH OTHER MEANS, IN WHICH NEW EMPLOYEES ARE ADVISED OF THEIR EMPLOYMENT STATUS, RIGHTS, BENEFITS, DUTIES, RESPONSIBILITIES, AND OTHER EMPLOYMENT–RELATED MATTERS.

(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(c) 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 a secondary school nurse, an elementary school nurse, and a special school nurse.

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

(7) In Carroll County, “public school employee” includes:

(i) A registered nurse; and

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

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

6–407.1.

(A) (1) (I) EACH PUBLIC SCHOOL EMPLOYER SHALL PROVIDE THE EXCLUSIVE REPRESENTATIVE ACCESS TO NEW EMPLOYEE PROCESSING.

(II) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE PUBLIC SCHOOL EMPLOYER SHALL PROVIDE THE EXCLUSIVE REPRESENTATIVE AT LEAST 10 DAYS' NOTICE IN ADVANCE OF A NEW EMPLOYEE PROCESSING.

(III) THE PUBLIC SCHOOL EMPLOYER MAY PROVIDE THE EXCLUSIVE REPRESENTATIVE WITH LESS THAN 10 DAYS' NOTICE IF THERE IS AN URGENT NEED CRITICAL TO THE PUBLIC SCHOOL EMPLOYER'S NEW EMPLOYEE PROCESSING THAT WAS NOT REASONABLY FORESEEABLE.

(2) (I) THE STRUCTURE, TIME, AND MANNER OF THE ACCESS REQUIRED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL BE DETERMINED THROUGH NEGOTIATIONS BETWEEN THE PUBLIC SCHOOL EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE IN ACCORDANCE WITH § 6-408 OF THIS SUBTITLE.

(II) WHEN NEGOTIATING ACCESS TO NEW EMPLOYEE PROCESSING UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, IF ANY DISPUTE HAS NOT BEEN RESOLVED WITHIN 45 DAYS AFTER THE FIRST MEETING OF THE PUBLIC SCHOOL EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE, OR WITHIN 60 DAYS AFTER AN INITIAL REQUEST TO NEGOTIATE, WHICHEVER OCCURS FIRST, EITHER PARTY MAY REQUEST THAT THE BOARD DECLARE AN IMPASSE UNDER § 6-408(E) OF THIS SUBTITLE.

(III) IN AN IMPASSE PROCEEDING UNDER § 6-408(E) OF THIS SUBTITLE, THE MEDIATOR OR BOARD SHALL CONSIDER:

1. THE ABILITY OF THE EXCLUSIVE REPRESENTATIVE TO COMMUNICATE WITH THE PUBLIC SCHOOL EMPLOYEES IT REPRESENTS;

2. THE LEGAL OBLIGATIONS OF THE EXCLUSIVE REPRESENTATIVE TO THE PUBLIC SCHOOL EMPLOYEES;

3. APPLICABLE STATE, FEDERAL, AND LOCAL LAWS;

4. ANY STIPULATIONS OF THE PARTIES;

5. THE INTERESTS AND WELFARE OF THE PUBLIC SCHOOL EMPLOYEES AND THE FINANCIAL CONDITION OF THE PUBLIC SCHOOL EMPLOYER;

6. THE STRUCTURE, TIME, AND MANNER OF ACCESS OF AN EXCLUSIVE REPRESENTATIVE TO NEW EMPLOYEE PROCESSING IN COMPARABLE

PUBLIC SCHOOL EMPLOYERS, INCLUDING THE ACCESS PROVISIONS IN OTHER MEMORANDA OF UNDERSTANDING OR COLLECTIVE BARGAINING AGREEMENTS; AND

7. ANY OTHER FACTS ROUTINELY CONSIDERED IN ESTABLISHING THE STRUCTURE, TIME, AND MANNER OF ACCESS OF AN EXCLUSIVE REPRESENTATIVE TO NEW EMPLOYEE PROCESSING.

(3) (I) A REQUEST TO NEGOTIATE UNDER PARAGRAPH (2) OF THIS SUBSECTION MADE BETWEEN JULY 1, 2018, AND THE EXPIRATION DATE OF AN EXISTING COLLECTIVE BARGAINING AGREEMENT BETWEEN THE PARTIES SHALL REOPEN THE EXISTING COLLECTIVE BARGAINING AGREEMENT ONLY FOR THE PURPOSE OF NEGOTIATING THE ACCESS OF THE EXCLUSIVE REPRESENTATIVE TO THE PUBLIC SCHOOL EMPLOYER'S NEW EMPLOYEE PROCESSING.

(II) EITHER PARTY MAY ELECT TO NEGOTIATE A SEPARATE AGREEMENT ON THE ACCESS OF THE EXCLUSIVE REPRESENTATIVE TO THE PUBLIC SCHOOL EMPLOYER'S NEW EMPLOYEE PROCESSING IN LIEU OF REOPENING THE EXISTING COLLECTIVE BARGAINING AGREEMENT.

(B) THIS SECTION DOES NOT PROHIBIT A PUBLIC SCHOOL EMPLOYER AND AN EXCLUSIVE REPRESENTATIVE FROM NEGOTIATING ACCESS TO NEW EMPLOYEE PROCESSING THAT VARIES FROM THE REQUIREMENTS OF THIS SECTION.

(C) NOTHING IN THIS SECTION SHALL ABROGATE EXISTING COLLECTIVE BARGAINING AGREEMENTS BETWEEN PUBLIC SCHOOL EMPLOYERS AND EXCLUSIVE REPRESENTATIVES.

6-407.2.

(A) WITHIN 30 DAYS OF THE DATE OF HIRE, OR BY THE FIRST PAY PERIOD OF THE MONTH AFTER THE DATE OF HIRE, OF EACH NEW PUBLIC SCHOOL EMPLOYEE, A PUBLIC SCHOOL EMPLOYER SHALL PROVIDE THE EXCLUSIVE REPRESENTATIVE WITH THE EMPLOYEE'S:

(1) NAME;

(2) POSITION CLASSIFICATION;

(3) HOME AND WORK SITE ADDRESSES WHERE THE EMPLOYEE RECEIVES INTEROFFICE OR UNITED STATES MAIL;

(4) HOME AND WORK SITE TELEPHONE NUMBERS;

(5) PERSONAL CELL PHONE NUMBER; AND

(6) WORK ~~AND PERSONAL~~ E-MAIL ADDRESSES.

(B) (1) (I) THE PUBLIC SCHOOL EMPLOYER SHALL PROVIDE THE EXCLUSIVE REPRESENTATIVE WITH THE INFORMATION DESCRIBED IN SUBSECTION (A) OF THIS SECTION FOR EACH EMPLOYEE IN THE BARGAINING UNIT REPRESENTED BY THE EXCLUSIVE REPRESENTATIVE ~~AT LEAST~~ ONCE EVERY 120 DAYS.

(II) SUBJECT TO § 6-408 OF THIS SUBTITLE, THE PUBLIC SCHOOL EMPLOYER MAY NEGOTIATE WITH THE EXCLUSIVE REPRESENTATIVE TO PROVIDE:

~~1. THE THE~~ INFORMATION REQUIRED UNDER THIS PARAGRAPH MORE FREQUENTLY THAN ONCE EVERY 120 DAYS; ~~AND~~

~~2. MORE DETAILED INFORMATION THAN REQUIRED UNDER THIS PARAGRAPH.~~

(2) THE PUBLIC SCHOOL EMPLOYER SHALL PROVIDE THE EXCLUSIVE REPRESENTATIVE WITH THE INFORMATION DESCRIBED IN SUBSECTION (A) OF THIS SECTION REGARDLESS OF WHETHER THE NEWLY HIRED EMPLOYEE WAS PREVIOUSLY EMPLOYED BY THE PUBLIC SCHOOL EMPLOYER.

6-408.

(c) (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 all matters that relate to [salaries]:

(I) SALARIES, wages, hours, and other working conditions, including procedures regarding employee transfers and assignments; AND

(II) THE STRUCTURE, TIME, AND MANNER OF THE ACCESS OF THE EXCLUSIVE REPRESENTATIVE TO A PUBLIC SCHOOL EMPLOYER’S NEW EMPLOYEE PROCESSING AS REQUIRED UNDER § 6-407.1 OF THIS SUBTITLE.

6-501.

(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-1) “Day” means a calendar day unless otherwise indicated.

(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.

(e) “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-1) “NEW EMPLOYEE PROCESSING” MEANS THE PROCESS FOR A NEWLY HIRED PUBLIC SCHOOL EMPLOYEE, WHETHER IN PERSON, ONLINE, OR THROUGH OTHER MEANS, IN WHICH NEW EMPLOYEES ARE ADVISED OF THEIR EMPLOYMENT STATUS, RIGHTS, BENEFITS, DUTIES, RESPONSIBILITIES, AND OTHER EMPLOYMENT-RELATED MATTERS.

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

(g) (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(c) of this subtitle.

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

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

(i) “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.

6-509.1.

(A) (1) (I) EACH PUBLIC SCHOOL EMPLOYER SHALL PROVIDE THE EXCLUSIVE REPRESENTATIVE ACCESS TO NEW EMPLOYEE PROCESSING.

(II) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE PUBLIC SCHOOL EMPLOYER SHALL PROVIDE THE EXCLUSIVE REPRESENTATIVE AT LEAST 10 DAYS’ NOTICE IN ADVANCE OF A NEW EMPLOYEE PROCESSING.

(III) THE PUBLIC SCHOOL EMPLOYER MAY PROVIDE THE EXCLUSIVE REPRESENTATIVE WITH LESS THAN 10 DAYS’ NOTICE IF THERE IS AN URGENT NEED CRITICAL TO THE PUBLIC SCHOOL EMPLOYER’S NEW EMPLOYEE PROCESSING THAT WAS NOT REASONABLY FORESEEABLE.

(2) (I) THE STRUCTURE, TIME, AND MANNER OF THE ACCESS REQUIRED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL BE DETERMINED THROUGH NEGOTIATIONS BETWEEN THE PUBLIC SCHOOL EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE IN ACCORDANCE WITH § 6-510 OF THIS SUBTITLE.

(II) WHEN NEGOTIATING ACCESS TO NEW EMPLOYEE PROCESSING UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, IF ANY DISPUTE HAS NOT BEEN RESOLVED WITHIN 45 DAYS AFTER THE FIRST MEETING OF THE PUBLIC SCHOOL EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE, OR WITHIN 60 DAYS AFTER AN INITIAL REQUEST TO NEGOTIATE, WHICHEVER OCCURS FIRST, EITHER PARTY MAY REQUEST THAT THE BOARD DECLARE AN IMPASSE UNDER § 6-510(E) OF THIS SUBTITLE.

(III) IN AN IMPASSE PROCEEDING UNDER § 6-510(E) OF THIS SUBTITLE, THE MEDIATOR OR BOARD SHALL CONSIDER:

1. THE ABILITY OF THE EXCLUSIVE REPRESENTATIVE TO COMMUNICATE WITH THE PUBLIC SCHOOL EMPLOYEES IT REPRESENTS;

2. THE LEGAL OBLIGATIONS OF THE EXCLUSIVE REPRESENTATIVE TO THE PUBLIC SCHOOL EMPLOYEES;

3. APPLICABLE STATE, FEDERAL, AND LOCAL LAWS;

4. ANY STIPULATIONS OF THE PARTIES;

5. THE INTERESTS AND WELFARE OF THE PUBLIC SCHOOL EMPLOYEES AND THE FINANCIAL CONDITION OF THE PUBLIC SCHOOL EMPLOYER;

6. THE STRUCTURE, TIME, AND MANNER OF ACCESS OF AN EXCLUSIVE REPRESENTATIVE TO NEW EMPLOYEE PROCESSING IN COMPARABLE PUBLIC SCHOOL EMPLOYERS, INCLUDING THE ACCESS PROVISIONS IN OTHER MEMORANDA OF UNDERSTANDING OR COLLECTIVE BARGAINING AGREEMENTS; AND

7. ANY OTHER FACTS ROUTINELY CONSIDERED IN ESTABLISHING THE STRUCTURE, TIME, AND MANNER OF ACCESS OF AN EXCLUSIVE REPRESENTATIVE TO NEW EMPLOYEE PROCESSING.

(3) (I) A REQUEST TO NEGOTIATE UNDER PARAGRAPH (2) OF THIS SUBSECTION MADE BETWEEN JULY 1, 2018, AND THE EXPIRATION DATE OF AN EXISTING COLLECTIVE BARGAINING AGREEMENT BETWEEN THE PARTIES SHALL REOPEN THE EXISTING COLLECTIVE BARGAINING AGREEMENT ONLY FOR THE PURPOSE OF NEGOTIATING THE ACCESS OF THE EXCLUSIVE REPRESENTATIVE TO THE PUBLIC SCHOOL EMPLOYER'S NEW EMPLOYEE PROCESSING.

(II) EITHER PARTY MAY ELECT TO NEGOTIATE A SEPARATE AGREEMENT ON THE ACCESS OF THE EXCLUSIVE REPRESENTATIVE TO THE PUBLIC SCHOOL EMPLOYER'S NEW EMPLOYEE PROCESSING IN LIEU OF REOPENING THE EXISTING COLLECTIVE BARGAINING AGREEMENT.

(B) THIS SECTION DOES NOT PROHIBIT A PUBLIC SCHOOL EMPLOYER AND AN EXCLUSIVE REPRESENTATIVE FROM NEGOTIATING ACCESS TO NEW EMPLOYEE PROCESSING THAT VARIES FROM THE REQUIREMENTS OF THIS SECTION.

(C) NOTHING IN THIS SECTION SHALL ABROGATE EXISTING COLLECTIVE BARGAINING AGREEMENTS BETWEEN PUBLIC SCHOOL EMPLOYERS AND EXCLUSIVE REPRESENTATIVES.

6-509.2.

(A) WITHIN 30 DAYS OF THE DATE OF HIRE, OR BY THE FIRST PAY PERIOD OF THE MONTH AFTER THE DATE OF HIRE, OF EACH NEW PUBLIC SCHOOL EMPLOYEE, A PUBLIC SCHOOL EMPLOYER SHALL PROVIDE THE EXCLUSIVE REPRESENTATIVE WITH THE EMPLOYEE'S:

- (1) NAME;
- (2) POSITION CLASSIFICATION;
- (3) HOME AND WORK SITE ADDRESSES WHERE THE EMPLOYEE RECEIVES INTEROFFICE OR UNITED STATES MAIL;
- (4) HOME AND WORK SITE TELEPHONE NUMBERS;
- (5) PERSONAL CELL PHONE NUMBER; AND
- (6) WORK ~~AND PERSONAL~~ E-MAIL ADDRESSES.

(B) (1) (I) THE PUBLIC SCHOOL EMPLOYER SHALL PROVIDE THE EXCLUSIVE REPRESENTATIVE WITH THE INFORMATION DESCRIBED IN SUBSECTION (A) OF THIS SECTION FOR EACH EMPLOYEE IN THE BARGAINING UNIT REPRESENTED BY THE EXCLUSIVE REPRESENTATIVE ~~AT LEAST~~ ONCE EVERY 120 DAYS.

(II) SUBJECT TO § 6-510 OF THIS SUBTITLE, THE PUBLIC SCHOOL EMPLOYER MAY NEGOTIATE WITH THE EXCLUSIVE REPRESENTATIVE TO PROVIDE:

~~1. THE THE~~ INFORMATION REQUIRED UNDER THIS PARAGRAPH MORE FREQUENTLY THAN ONCE EVERY 120 DAYS; ~~AND~~

~~2. MORE DETAILED INFORMATION THAN REQUIRED UNDER THIS PARAGRAPH.~~

(2) THE PUBLIC SCHOOL EMPLOYER SHALL PROVIDE THE EXCLUSIVE REPRESENTATIVE WITH THE INFORMATION DESCRIBED IN SUBSECTION (A) OF THIS SECTION REGARDLESS OF WHETHER THE NEWLY HIRED EMPLOYEE WAS PREVIOUSLY EMPLOYED BY THE PUBLIC SCHOOL EMPLOYER.

6-510.

(c) (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 all matters that relate to [salaries]:

(I) SALARIES, wages, hours, and other working conditions, including the discipline and discharge of an employee for just cause; AND

(II) THE STRUCTURE, TIME, AND MANNER OF THE ACCESS OF THE EXCLUSIVE REPRESENTATIVE TO A PUBLIC SCHOOL EMPLOYER’S NEW EMPLOYEE PROCESSING AS REQUIRED UNDER § 6-509.1 OF THIS SUBTITLE.

Article – General Provisions

4-311.

(a) Subject to subsection (b) of this section, a custodian shall deny inspection of a personnel record of an individual, including an application, a performance rating, or scholastic achievement information.

(b) A custodian shall allow inspection by:

(1) the person in interest; [or]

(2) an elected or appointed official who supervises the work of the individual; **OR**

(3) AN EMPLOYEE ORGANIZATION DESCRIBED IN TITLE 6 OF THE EDUCATION ARTICLE OF THE PORTION OF THE PERSONNEL RECORD THAT CONTAINS THE INDIVIDUAL’S:

(I) HOME ADDRESS;

(II) HOME TELEPHONE NUMBER; AND

(III) PERSONAL CELL PHONE NUMBER;

~~**(IV) PERSONAL E-MAIL ADDRESS; AND**~~

~~**(V) DATE OF BIRTH.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2018.

Enacted under Article II, § 17(b) of the Maryland Constitution, April 5, 2018.