

Maryland Community Colleges

Collective Bargaining Fact Sheet #2

November 22, 2021

Md. Code Ann., Educ. §§ 16-701 et seq.

What Is The Effective Date? The effective date of the law is September 1, 2022 (if the Governor’s veto is overridden). The law contains staggered effective dates and dates for bargaining regarding wages. *See* § 16-702(B); Section 5(b).

Who Can Organize? The law permits up to four (4) bargaining units: two (2) non-exempt staff units and one unit each for full- and part-time faculty. A petition for election will state the positions the union is seeking to represent. A union could seek to represent all non-exempt staff at an institution or a subset of non-exempt staff. Alternatively, for example, two unions could seek to represent two distinct groups of non-exempt employees.

What Is A Non-exempt Employee? An individual who is not exempt from the overtime provisions of the FLSA and is therefore entitled to overtime pay for all hours worked beyond 40 in a workweek. Nonexempt employees may be paid on a salary, hourly, or other basis.

Who Cannot Organize? Officers, supervisors, student assistants, and confidential employees. Officer means the president, vice presidents, deans, and “any other similar official of the community college as appointed by the” BOT. Confidential employee means an employee “whose unrestricted access to personnel, budgetary, or fiscal data subject to use by the public employer in collective bargaining, or whose close, continuing working relationship with those responsible for negotiating on behalf of the public employer, would make the employee’s membership in a [union] as a rank and file employee incompatible with the employee’s duties.” Supervisory employees are those who have “full-time and exclusive authority to act on behalf of a” college to: hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees; or adjust employee grievances.

What Does The Law Do? The law, among other things, will give eligible employees (1) the right to organize; (2) form, join, or assist a union; (3) bargain collectively through a union; (4) engage in concerted activity for the purpose of collective bargaining; and (5) refrain from doing the things listed in (1) through (4).

The law also prohibits colleges from spending public money, using public resources, and providing assistance to an individual or group to campaign against a union; and prohibits colleges (including their officers and agents) from encouraging or discouraging their employees in the selection of a particular union. The law will also prohibit interference, threats, promises, and intimidation against employees seeking to unionize.

Who Administers The Law? The State Higher Education Labor Relations Board (SHELRB) will oversee elections, collective bargaining disputes/impasse resolution, and unfair labor practices.

What Is The Process For Unionization? For SHELRB to order an election, a union must demonstrate at least a 30% showing of interest, through signed authorization cards or union membership cards of employees in the proposed bargaining unit. An election can be in-person, by mail, or electronic means. There is a mandatory 10-day voting period. A union can be certified as the exclusive representative of a bargaining unit by receiving a majority of votes cast in an election or by demonstrating that it has more than 50% support in a proposed bargaining unit as evidenced by showing of interest cards. Designation of a union as the exclusive representative without an election is an option if: (1) only one union seeks certification as the exclusive representative; (2) there is no incumbent union; (3) the union has not requested an election; and (4) SHELRB determines that more than 50% of the public employees in the bargaining unit support the union based on

“showing of interest” forms as compared to the list of bargaining unit employees. This means that signing a showing of interest form can result in a union without an election, if these four things happen.

What Is A Showing Of Interest Form? A showing of interest form is a written statement from an employee who wishes to be represented by a union for the purpose of collective bargaining and includes a union authorization card or a union membership card. Showing of interest forms are valid for 18 months from the date of signature.

Do Employees Have To Sign A Showing Of Interest Form? No. Employees do not have to sign a showing of interest form. The law gives employees the right not to join a union.

Do Employees Who Sign A Showing Of Interest Form Have To Vote For The Union? No. It does not make any difference whether an employee has signed a union card, attended union meetings, or even paid dues to a union. An employee who signs a showing of interest form may vote “NO” in an election. Elections are conducted by secret ballot and neither a college nor the union is entitled to know how an employee votes.

Why Does Signing A Showing Of Interest Form Matter? The law requires that a union submit showing of interest forms from at least 30% of eligible employees in order to initiate the election process. If enough employees sign a showing of interest form, those forms can be used by a union to be “designated” as the exclusive representative without an election. Employees who sign a showing of interest form should understand the implications of signing a showing of interest form.

What Are Management Rights? Community colleges retain the right to determine how the statutory mandate and goals of the institution, including the programs offered, overall budget, and organizational structure are carried out, and to direct personnel.

What Happens To Existing Bargaining Units? Existing bargaining units continue. SHELRB may not require bargaining units existing before September 1, 2022 to conform to the new law.

What Subjects Are Addressed In A Collective Bargaining Agreement (CBA)? If college employees vote to organize, the college and the union must negotiate in good faith regarding wages, hours, and other terms and conditions of employment. Subjects of bargaining may include, but are not limited to: procedures for voluntary dues deductions, grievance and arbitration procedures, new employee processing, benefits, safety matters, leave, drug testing, work rules and discipline, discharge, layoff and recall, and use of temporary employees.

What Is Collective Bargaining? If a union becomes the exclusive representative of employees, the college and the union must negotiate in good faith. Negotiating in good faith does not mean that a college or union has to agree to the others’ proposals. Although there would be a legal duty to bargain in good faith, there is no law that forces a college or union to agree with any demand it feels is not in the best interest of the organization or employees, respectively.

If A Union Becomes The Exclusive Representative, Do Employees Have To Join The Union? If the union wins an election, the college will be required to bargain in good faith in an effort to reach agreement over the terms and conditions of employment of all employees in the “bargaining unit.” The college cannot pick and choose between those employees who want to be in the union and those who do not if the union wins the election. Employees, however, cannot be required to pay union dues in the public sector.

How Do Unions Get Employee Personal Information? The legislation requires community colleges to provide unions with certain information regarding employees, including name, position classification, home and work address, home and work phone numbers, personal cell phone numbers, and work email address. Once a petition is filed at a college, the institution must provide this information to the state and to the union.