

Department of Legislative Services
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FISCAL AND POLICY NOTE
First Reader

House Bill 511
Appropriations

(Delegate Angel, *et al.*)

Public Institutions of Higher Education - Hate-Bias Incident Prevention

This bill requires each public institution of higher education to develop and implement a plan for a program to prevent hate-bias incidents, including mandatory training, and a hate-bias incident response protocol. The protocol must include a public log of hate-bias incidents and, if the institution has an electronic crime notification system, the system must include notifications of such incidents. Related reports must be submitted annually to the Maryland Higher Education Commission (MHEC) and the General Assembly.

Fiscal Summary

State Effect: Higher education expenditures may increase minimally beginning in FY 2019 for public institutions of higher education. MHEC can handle the bill's requirements with existing budgeted resources. Revenues are not affected.

Local Effect: Local community college expenditures may increase minimally beginning in FY 2019. Revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary: "Hate-bias incident" means an incident characterized by the expression of hate or bias against a particular group or toward an individual because of the individual's membership or perceived membership in that group.

Each public institution of higher education must develop and implement a plan for a program to prevent hate-bias incidents. If an institution already has such a program, it must

develop and implement a plan for improving the program. In addition to other requirements, the plan must include:

- an implementation strategy and a timeline for meeting goals;
- a description of the way the institution addresses hate-bias incidents; and
- a mandatory incoming student educational program to provide instruction on the awareness, prevention, and reporting of hate-bias incidents.

Each public institution of higher education must also develop and implement a hate-bias incident response protocol, which must have guidelines for reporting and investigating hate-bias incidents and consulting with relevant campus administrators regarding appropriate action. The protocol must include a log of hate-bias incidents, including outcomes, that is accessible to the student body, faculty, staff, and the public. Further, if the institution has an electronic crime alert notification system, the system must include notifications of hate-bias incidents.

By September 1 each year, the governing body of each institution must submit a progress report to MHEC regarding the institution's plans for the program, including the number and description of the incidents reported and the outcomes of the incidents. MHEC must in turn report to specified committees of the General Assembly by December 1 each year on the extent to which the institutions are in compliance with the requirements of the bill.

Current Law/Background: There is no requirement for public institutions of higher education to develop and implement plans for programs to prevent hate-bias incidents. Chapters 579 and 580 of 2008 established a similar requirement to develop and implement plans for programs of cultural diversity, except that there is no mandatory *incoming* student training and no incident response protocol. Instead, the plans must enhance cultural diversity programming and sensitivity to cultural diversity through instruction and training of the student body, faculty, and staff at the institution. The cultural diversity plan must also include a process for reporting campus-based hate crimes, as defined in State law and consistent with federal requirements.

The University System of Maryland (USM) Policy on Acts of Violence and Extremism states:

Acts of destruction or violence which are racially, ethnically, religiously, and/or otherwise motivated against the person or property of others and which infringe on the rights and freedom of others will not be tolerated at the University System's institutions or facilities. Individuals committing such acts at any facility of the System are subject to campus judicial and personnel action, including suspension, expulsion or termination.

The policy also encourages USM institutions to pursue criminal prosecution for committing such acts under State and federal law.

Hate Crimes

Under current law, a person may not, because of another's race, color, religious beliefs, sexual orientation, gender, or national origin, or because another person is homeless:

- commit a crime or attempt to commit a crime against another person;
- damage the real or personal property of another person;
- deface, damage, destroy, or attempt to deface, damage, or destroy the real or personal property of another person;
- burn or attempt to burn an object on the real or personal property of another person;
- or
- commit a hate crime that involves a separate crime that is a felony or that results in the death of the victim.

There are similar prohibitions related to the free exercise of religious beliefs and the destruction of property.

According to statistics published by the Federal Bureau of Investigation (FBI) in November 2017, jurisdictions in Maryland reported 37 hate crime incidents in 2016. However, in subsequent news reports, the Department of State Police (DSP) clarified that the number reported by the FBI did not include late submissions by 9 of the 19 reporting agencies. Including those statistics, there were 93 hate crime incidents reported in Maryland during 2016. According to DSP, the 2016 figures represent a 116% increase from 2015.

State Expenditures: For purposes of this estimate, it is assumed that requirements in current law that specifically reference cultural diversity apply solely to the existing cultural diversity plan. This is to avoid, for example, the bill requiring that the hate-bias plan *also* enhance cultural diversity programming and sensitivity to cultural diversity through instruction and training – which is currently required by the existing cultural diversity plan.

Specific to the educational program and reporting requirements, USM advises that providing training across all USM institutions costs approximately \$240,000 annually for program and staff expenses. The Department of Legislative Services disagrees with this assessment. Higher education expenditures may increase minimally at public institutions of higher education beginning in fiscal 2019 for any necessary staff or costs associated with the educational program, response protocol, or reporting requirement.

It is assumed that, for most students, the hate-bias educational information can be provided during the normal orientation process at little to no cost. MHEC also advises that many institutions already offer educational programs designed to prevent hate-bias incidents. Individual costs associated with mid-year transfer students, graduate students, and distance learners may be higher.

Response protocols, including a publicly accessible log, can likely be developed by existing administrative and technical staff and with existing resources. To the extent this is not the case, higher education expenditures increase minimally beginning in fiscal 2019. As a similar cultural diversity report is already required each year, there is likely little additional cost associated with submitting a concurrent hate-bias incident report.

As the bill only requires notifications of hate-bias incidents through *existing* electronic alert notification systems, there is no additional cost associated with this requirement.

While the bill has an administrative impact, particularly in fiscal 2019, MHEC can handle the bill's requirements with existing budgeted resources.

Local Expenditures: For the same reasons as discussed above, local community college expenditures may increase minimally beginning in fiscal 2019 for any necessary staff or costs associated with the educational program, response protocol, or reporting requirement.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Higher Education Commission; University System of Maryland; Department of State Police; Baltimore City Community College; Federal Bureau of Investigation; Department of Legislative Services

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