

Department of Legislative Services  
Maryland General Assembly  
2020 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1347  
Ways and Means

(Delegates Washington and Ivey)

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**Public Schools - Applicants for Employment - Race and Gender Information**

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This bill requires each local board of education to keep a report of the race and gender of all applicants for a position with the local school system and of any individuals who are hired for a position with the local school system. Each local school system must compile the information in a searchable and analyzable electronic format. By February 1 each year, beginning in fiscal 2022 (February 1, 2022), each local board must publish on its website this information for the immediately preceding calendar year. **The bill takes effect July 1, 2020.**

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**Fiscal Summary**

**State Effect:** None. The bill applies to local school systems.

**Local Effect:** Local school systems can likely collect and publish the required information using existing resources. Revenues are not affected.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** State law generally prohibits an employer with at least 15 employees from discharging, failing or refusing to hire, or otherwise discriminating against any individual with respect to the individual's compensation, terms, conditions, or privileges of employment because of race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, genetic information, or disability. The State and local governments are considered employers. Regardless of employer size, under the State's Equal Pay for Equal Work law, an employer may not discriminate between employees in

any occupation by (1) paying a wage to employees of one sex or gender identity at a rate less than the rate paid to employees of another sex or gender identity if both employees work in the same establishment and perform work of comparable character or work on the same operation, in the same business, or of the same type or (2) providing less favorable employment opportunities based on sex or gender identity. However, a variation in a wage based on specified systems or factors is generally not prohibited.

### *Public School Employees*

The State Superintendent, a local board of education, a county superintendent, or an assistant to any one of these may not make any distinction or discriminate in favor of or against any public school employee of this State because of race, religion, color, ancestry or national origin, sex, age, marital status, sexual orientation, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment except, as to sex, if the employment of a certain sex is reasonably necessary because of the nature of the employment. This applies to the appointment, assignment, compensation, promotion, transfer, dismissal, and any other matter that relates to the employment of public school employees in this State.

**Background:** The Maryland State Department of Education (MSDE) publishes an annual report [Professional Staff by Assignment, Race/Ethnicity and Gender](#); however, MSDE does not collect and publish the information for job applicants. According to the report, there are approximately 80,500 professional staff employed by local school systems. In addition, local school systems employ an unknown number of nonprofessional staff. It is unknown how many positions are open each year or how many applicants there are for each position.

### *U.S. Equal Employment Opportunity Commission – Race Guidance*

According to the U.S. Equal Employment Opportunity Commission (EEOC), employers should not request information that discloses or tends to disclose an applicant's race unless it has a legitimate business need for such information. If an employer legitimately needs information about its employees' or applicants' race for affirmative action purposes and/or to track applicant flow, it may obtain the necessary information and simultaneously guard against discriminatory selection by using a mechanism, such as "tear-off" sheets. This allows the employer to separate the race-related information from the information used to determine if a person is qualified for the job.

EEOC's [New Compliance Manual Section 15 - Race and Color Discrimination](#) published in 2006 provides guidance on providing equal access to jobs through nondiscriminatory recruitment, hiring, and promotion.

*Baltimore City Public School System*

Baltimore City Public School System advises that its current application system allows a candidate for a position to decline to provide their race and/or gender. The bill does not explicitly allow a candidate to decline to provide the information.

**Local Expenditures:** Local school systems can likely collect and publish the required information using existing resources. Any local costs depends on current local information technology. Some local school system may have one-time costs to update their hiring software to collect the required information; however, these costs can likely be absorbed.

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**Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** Maryland State Department of Education; Department of Budget and Management; Baltimore City Public Schools; U.S. Equal Employment Opportunity Commission; Department of Legislative Services

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